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IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

CIVIL APPLICATION NO. 4622 OF 2018
IN
FIRST APPEAL NO.1321 OF 2009

Mukundacharya Bandacharya Joshi

APPLICANT

VERSUS

GMIDC, Aurangabad and Another

RESPONDENTS

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Mr. Prashant K. Deshmukh, Advocate for the applicant

Mr. A. M. Phule, AGP for respondent - State

Mr. T. B. Bhosale, Advocate for respondent No.1

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[CORAM : SUNIL P. DESHMUKH, J.]

DATE : 10th APRIL, 2018

ORDER :

1. Heard learned advocates for the parties.
2. This is another application by the claimant for withdrawal of amount deposited in this court. Claimant's 2 Hectare 5 Are land had been acquired around 1991-92. The claimant had been awarded compensation of Rs.70,000/- by the special land acquisition officer and the same came to be enhanced to Rs. 7,13,207/- by the reference court.
3. Learned advocate for the applicant draws attention to that

the entire amount pursuant to the award by the reference court had been deposited in the executing court at Nilanga. In 2012, applicant had been allowed to withdraw 50% of the amount deposited from the executing court on furnishing solvent security. He submits that five years down, there have been further developments and it emerges now that the applicant who is 82 year old, is suffering from cancer. According to medical experts and particularly, oncologists treatment for the same may consume about Rs.3,50,000/-. Learned advocate for the applicant draws attention to Exhibit-A to the application at page 7 and submits that the doctor has opined expenses involved for the treatment of the applicant would be around Rs.3,50,000/-. Learned advocate submits that with the loss of land his earning source has been affected. In fact timely payment of due amount pursuant to the award of the reference court would have allowed the applicant to create alternate source of income however, amount has not come his way when it was due and he had not been able to create alternate source of income. Further, fate is such, he is suffering and requires expensive medical treatment. He further submits that even otherwise, there are remote chances that appellant in first appeal will get success. The reference court award is based on evidence, which is hardly

liable to be faulted with. As on the date the applicant is entitled to the award amount and half of the amount is lying, which would come to his aid required earnestly by him.

4. Learned advocate for the acquiring body though purports to resist the request, however, is not in a position to overcome the circumstances, which have occurred.

5. Having regard to the circumstances, it appears to be expedient to allow the applicant to withdraw rest of the amount deposited along with accrued interest thereon, subject to condition of furnishing solvent security to the satisfaction of Executing Court.

6. As such, the applicant may withdraw the balance of the amount deposited in the executing court along with interest accrued thereon, on furnishing solvent security to the satisfaction of the Executing Court.

7. Civil application accordingly stands disposed of.

[SUNIL P. DESHMUKH, J.]