IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

917 CIVIL APPLICATION NO. 7384 OF 2018
IN
FIRST APPEAL STAMP NO. 13428 OF 2017

BALAJI NARAYAN KADAM
VERSUS
THE EXECUTIVE ENGINEER, UDARWA PENGANGA PROJECT DIVISION NO. 8 THR. MADASWAR
NIVRUTTI LINGANNA & ORS.

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Mr. R.B.Narwade Patil, Advocate for Applicant.
Mr. S.C.Arora, Advocate for R – 1.
Mr. P.G.Borade, A.G.P. for R – 2.

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CORAM : K.K.SONAWANE, J.
DATE : 5th JULY, 2018

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ORAL ORDER :

1. Heard the learned counsel for the applicant and learned counsel for acquiring body. Perused the application filed for seeking permission to withdraw the decreetal amount deposited in this Court. .

2. Learned counsel for the acquiring body raised objection and submits that the Referencce Court has committed error while granting the amount of interest envisaged u/s 28 and 34 of the Land Acquisition Act. The Reference Court granted interest from February 1986 i.e. from the so called date of taking possession of the land by the acquiring body for public purpose. The findings of the Reference Court for awarding interest are incorrect, illegal and not within the purview of law. Therefore, he submits that the applicant may not be allowed to withdraw the amount.

3. Having considered the rival submissions, there is no dispute

that the land of the applicant came to be acquired by the appellant for public purpose. The applicant/original claimant is pursuing the proceeding for just and reasonable market value since year 1996. In such circumstances, in view of nature of the subject matter and the objection raised by the acquiring body, there is no impediment to allow the applicant for withdrawal of at least 50% of the compensation amount deposited in this Court. It would subserve the purpose in the interest of justice to protect the interest of the acquiring body. Hence, application deserves to be allowed.

4. Accordingly, the application stands allowed partly. The applicant is hereby permitted to withdraw 50% of the compensation amount deposited in this Court on behalf of appellant – acquiring body subject to condition that the appellant shall furnish undertaking that he would refund the amount so withdrawn forthwith in case any contingency arises in this Appeal. Rest of the 50% of balance decreetal amount be invested in F.D.R. in any nationalized bank for two years or till decision of the Appeal whichever is earlier with liberty to renew the FDR in future if required.

5. As such, the application stands disposed of.

[K.K.SONAWANE]
JUDGE