

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

CIVIL APPLICATION NO. 8096 OF 2018
IN FA/43/2016

SANJAY MAHARUDRA MAHAJAN
VERSUS
THE DY CHIEF ENGINEER (CONSTRUCTION) OFFICE OF THE DY. C.E.
(C) C.R. PUNE AND ANR

...
Advocate for Applicant : Mr. Suraj V.Gundre.
Advocate for Respondent No.1 : Mr. N. M. Navandar.
AGP for Respondent No.2 : Ms. S. S. Raut.
...

CORAM : K.K. SONAWANE, J.

DATED : 3rd JULY, 2018.

Order :-

Heard learned counsel for applicant-original claimant, learned counsel for respondent No.1 and learned AGP for the respondent No. 2. Perused the application and relevant documents on record.

2. Learned counsel for the applicant-original claimant submits that the coordinate bench of this Court (Coram : P.R. Bora, J.) under Order dated 28th September, 2016, passed in Civil Application No. 13065 of 2016 filed in First Appeal No. 44 of 2016, allowed the applicant/original claimant therein to withdraw the 60 % of the amount of compensation deposited by the acquiring body on furnishing the undertaking and also to withdraw balance 40 % of the amount on furnishing Bank guarantee in the like amount of any Nationalized or Scheduled Bank. He requested to apply the same yardstick for withdrawal of the amount in the present matter.

3. The learned counsel for respondent No.1 raised objection and submits that the applicant-claimant is not at all entitled to get enhancement of compensation as granted by the Reference Court. The entire findings are erroneous, illegal and not within the ambit of law.

He requested to list the appeal for final hearing on merit at the earliest instead of permitting to withdraw the amount deposited in this court.

4. In view of the aforesaid submissions, I do not find any impediment to allow the applicants-original claimants for withdrawal of the amount on the similar terms and conditions granted by the Court in other connected proceedings. Obviously, the similar yardstick is required to be applied in the proceedings pending for hearing against enhancement of compensation granted by the Reference Court under Section 18 of the Land Acquisition Act, 1894. Hence, application deserves to be allowed.

5. Accordingly, application stands allowed. The applicant-original claimant is permitted to withdraw 60 % of the amount of compensation deposited in this Court on furnishing undertaking that any contingency arises after decision of the appeal on merit, the applicant-original claimant would refund the amount forthwith as per directions of this court. The applicant-original claimant is also permitted to withdraw rest of the 40 % of the amount deposited in this Court on furnishing the bank guarantee of any Nationalized/Scheduled bank of like amount in this court. Accordingly, the application stands disposed of in above terms. The Registry to do the needful for disbursement of the amount as mentioned above.

[K. K. SONAWANE]
JUDGE

rrd.