

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

CIVIL APPLICATION NO. 8141 OF 2018 IN FA/3956/2017

KAMALBAI SRIMANT SAVANT
VERSUS
THE STATE OF MAHARASHTRA AND ANR

...
CIVIL APPLICATION NO. 8142 OF 2018 IN FA/3957/2017

RAMBHAU GENA PAWAR (DIED) THROUGH LEGAL HEIRS JOTI AND ORS
VERSUS
THE STATE OF MAHARASHTRA AND ANR

...
Advocate for Applicant : Mr. G. K. Sontakke.
AGP for Respondent No.1 : Ms. S. S. Raut.
Advocate for Respondent No.2 : Mr. R. C. Patil.
...

**CORAM : K.K. SONAWANE, J.
DATED : 3rd JULY, 2018.**

Order :-

1. Heard Mr. G. K. Sontakke, learned counsel for applicants-original claimants and Mr. R. C. Patil for respondent No.2 Acquiring Body. Ms.S.S.Raut, learned AGP appeared on behalf of respondent No.1 State of Maharashtra. Perused the applications.
2. Present applications moved for seeking permission for withdrawal of decretal amount deposited in this Court.
3. Mr. R.C.Patil, learned counsel for respondent-Acquiring Body raised objection and drawn my attention towards Judgment and Award passed by the Reference Court in operative part of the Award of Land Acquisition Reference No. 508 of 2003. The Reference Court allowed the amount of interest @ 9 % per annum for the first year from the date of notification dated 30-09-1993 and thereafter @ 15 % per annum for further period after expiry of one year. Apparently, the learned Reference Court committed an error by granting amount of interest under Section 28 and 34 of the Land Acquisition Act, 1894. Therefore, he submits that the applicant-claimant may not be allowed to withdraw compensation amount deposited in this Court.

4. In view of submission, I find force in the contentions put-forth on behalf of learned counsel for respondent- Acquiring Body. However, all these objections are required to be considered at the time of finality of the matter on merit. But, at this juncture, taking into consideration the attending circumstances on record, I find it justifiable to keep reserve 25 % of the decretal amount to protect the interest of Acquiring Body. However, rest of the 75 % of compensation deposited in this Court is required to be permitted to the claimants for withdrawal in the interest of justice. Hence, the applications deserve to be allowed partly.

5. Accordingly, applications stand partly allowed. The applicants-original claimants are permitted to withdraw 50 % of the amount deposited in this court on furnishing undertaking to the effect that the applicants would refund the amount so withdrawn forthwith in case any contingency arises in the appeal. The applicants are further permitted to withdraw rest of the 25 % of the balance decretal amount deposited in this Court subject to condition that applicants shall furnish solvent surety/security of like amount to the satisfaction of Registrar (Judicial) of this Court. The remaining 25 % balance decretal amount deposited in this Court be invested in any Nationalized Bank for a period of two years or till disposal of the appeal, whichever is earlier with liberty to renew the same in future if required. The Registry to do the needful for disbursement of the amount as mentioned above. The civil applications stand disposed of in above terms.

[K. K. SONAWANE]
JUDGE

rrd.