IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

908 CIVIL APPLICATION NO. 9397 OF 2018
IN
FA/305/2014
WITH
FA/464/2014

PRAKASH HARIBHAU POTDAR
VERSUS
G.M.I.D.C, THR ITS EX. ENGINEER, OSMANABAD
MINOR IRRIGATION DIV. OSMANABAD AND ANR.

.....
Mr. V.V.Ingle, Advocate for applicant.
Mr. S.R.Dheple, Advocate for R – 1.
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CORAM: V.L.ACHLIYA, J.
DATE : 08/08/2018

ORAL ORDER :

1. The applicant – original claimant has moved this application for withdrawal of amount deposited by the respondent – acquiring body in terms of interim order passed by this Court to stay the execution of Award passed by the Reference Court.

2. Heard learned counsel for the applicant and respondents. Perused the Award passed by Reference Court.

3. Learned counsel for respondent opposed the application with contention that the appellant has good case to succeed in appeal. It is submitted that the enhancement of compensation is about four times of compensation awarded by Special Land Acquisition Officer. It is submitted that there is no cogent and convincing evidence adduced by the claimants to enhance the compensation.

4. On the other hand, learned counsel for the applicant submits that as against the compensation determined @ Rs. 185/- per Are, the compensation is @ Rs. 940/- per Are. While assessing the compensation, the compensation on account of fruit bearing trees has not been awarded by Reference Court though the compensation was assessed by Special Land Acquisition Officer. He submits that due to poor financial condition, the applicant could not file appeal.

5. Considering the overall facts of the case and the grounds raised in the appeal and submissions advanced, I am of the view, passing of following order would meet the ends of justice.

ORDER

[i] Subject to out-come of appeal, the applicant is permitted to withdraw 50% of amount deposited by acquiring body on furnishing undertaking to the effect that in the event the Award is set aside or modified, the applicant shall deposit the amount within twelve weeks from the date of passing of order of re-deposit of amount.

[ii] Balance amount of 50% with accrued interest, if any, over the amount deposited be invested in fixed deposit initially for a period of three years with State Bank of India, High Court branch, Aurangabad with standing instructions to renew the same till further orders from the Court.

6. Interest accrued over the amount invested in fixed deposit be paid to the applicant after every three months by transferring the amount in his savings bank account as per the particulars given by applicant.

7. The application disposed of in above terms.

[V.L.ACHLIYA]
JUDGE

KNP/CA 9397.2018 in F.A. 305.2014