

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

CIVIL APPLICATION NO. 5052 OF 2018 IN FA/2058/2016

SUBHADRABAI BABRUWAN HAWALDAR
VERSUS
THE EXECUTIVE ENGINEER, LIFT IRRIGATION DIVISION,
OSMANABAD UNDER G.M.I.D.C. AURANGABAD

...
Advocate for Applicant : Mr.R.R.Mantri h/f. Mr.Laxmikant C. Patil.
Advocate for Respondent No. 1 : Mr. B. R. Surwase.
AGP for Respondent No.2 : Ms. S. S. Raut.
Advocate for Respondents No.3A to 3G : Mr. V. B. Deshmukh.

...
WITH CA/8286/2018 IN FA/2058/2016

BABU @ BABRUVAN HAWALDAR DIED HIS LRS SAKHARBAI
BABRUWAN @ BABU HAWALDAR AND OTHERS
VERSUS
THE EXECUTIVE ENGINEER, LIFT IRRIGATION DIVISION,
OSMANABAD UNDER G.M.I.D.C. AURANGABAD

...
Advocate for Applicants : Mr. V. B. Deshmukh.
Advocate for Respondent No. 1 : Mr. B. R. Surwase.
AGP for Respondents No.2 and 3 : Ms. S. S. Raut.

...

CORAM : P.R. BORA, J.

DATED : 27th AUGUST, 2018.

ORDER :-

1. The present applications are filed for withdrawal of the amount of compensation deposited by the Acquiring Body in this Court.
2. It has to be stated that vide order passed by this Court today in Civil Application No. 14244 of 2016, Subhadrabai, applicant in the aforesaid application No. 5052 of 2018 has been added as respondent No.4 in the First Appeal No. 2058 of 2016.

3. Mr. Mantri, learned counsel for applicant has tendered across the Bar, a copy of the Decree passed in Regular Civil Appeal No. 1 of 2005, which has attained finality. This aspect has not been disputed by the learned counsel appearing for respondent Nos.3A to 3G. Same is taken on record and marked as 'X' for identification.

4. Another application for withdrawal of amount of compensation is filed by respondent No.3 and her children. The applicants have sought permission for withdrawal of the entire amount.

5. In the companion matters, this Court has permitted the applicants therein to withdraw 50 % of the amount on undertaking, 25 % of the balance amount on furnishing bank guarantee and remaining 25 % amount directed to be invested in FDR in any nationalized bank till decision of the appeal.

6. The learned counsel prayed for passing of similar order in the present applications.

7. In view of the submissions so made, the following order is passed :-

ORDER

1. The applicant in Civil Application No. 5052 of 2018 as well as applicants in Civil Application No. 8286 of 2018 are

permitted to withdraw 50 % of the deposited amount according to their respective share as determined by the Decree passed in Regular Civil Appeal No. 1 of 2005 in the following manner -

- (a) 50 % on submitting an undertaking to the satisfaction of the Registrar of this Court.
- (b) 25 % on furnishing bank guarantee of any Nationalized or Scheduled Bank.
- (c) Remaining 25 % amount be invested in Fixed Deposit Receipts account for the period of two years or till disposal of the appeal.

2. Civil Applications stand disposed of in the aforesaid terms.

[P.R. BORA, J.]

LATER ON :

The learned counsel for respondent Nos.3A to 3G submitted that respondent No.3 intends to challenge the order passed by this Court today in Civil Application No. 14244 of 2016 before the Hon'ble Apex Court, and therefore, prayed for staying the effect of said order as well as present order for two weeks. Thereupon, Mr. Mantri, learned counsel appearing for applicant submitted that the applicant will not withdraw the amount as directed by this Court for next three weeks, though he may initiate the process for withdrawal of the amount.

[P.R. BORA, J.]

rrd.