

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

942 CIVIL APPLICATION NO. 8772 OF 2018
IN FA/1193/2016

LAXUMAN VITHOBA SURKUTE
VERSUS
MIDC THR ITS REGIONAL OFFICER AT LATUR AND ANR

...

Advocate for Applicant : Mr. Irpatgire A.N.
Mr. S. S. Dande, Adv. For R/1;
Mrs. SS Raut, AGP for Respondent No.2.

CORAM : P.R.BORA, J.

DATE : 4th September, 2018.

PER COURT :

1. Heard Shri Irpatgire, learned counsel for applicant; Shri Dande, learned counsel appearing for acquiring body – MIDC and Mrs. Raut, learned AGP appearing for State.

2. It is contended that though the applicant was previously permitted to withdraw 50% of the total amount and accordingly the said amount has been withdrawn by the applicant, he is now again in dire need some more amount for the reason that son of the applicant is suffering from acute kidney disease and is likely to

undergo surgery of kidney transplant, which may require expenses of huge amount. The learned counsel has, therefore, prayed for permitting the applicant to withdraw the entire deposited amount.

3. Shri Dande, learned counsel appearing for the acquiring body, has not opposed for permitting the applicant to withdraw some amount, if it is genuinely required to meet the medical expenses and the same is certified by the concerned surgeon under whom son of the applicant is being operated and to keep the balance amount in tact.

4. The learned counsel though has placed on record one certificate, certifying that son of the applicant is required to undergo kidney transplant surgery, the expenses are not indicated in the said certificate. The record shows that previously the applicant was permitted to withdraw an amount of Rs.87,00,000/- and equal amount is lying in this Court which has been invested in Fixed Deposit Receipt. It appears to

me that out of the balance amount, if the applicant is now permitted to withdraw 25% of the balance amount on submitting an undertaking to the satisfaction of the Registrar of this Court and further 25% of the remaining amount on furnishing a solvent surety, that will meet the ends of justice. It appears to me that considering the objections raised in exception to the impugned Award, it may be necessary to keep the balance amount intact till disposal of the appeal. In the peculiar facts and circumstances of the present case, I am inclined to pass the following order, -

ORDER

- i. The applicant is permitted to withdraw, from the balance amount, 25% amount on submitting an undertaking to the satisfaction of the Registrar of this Court and more 25% amount on submitting a solvent surety or bank guarantee of any Nationalized Bank of the equal amount;
- ii. 50% of the remaining amount shall be kept in tact till disposal of the appeal.

iii. The Civil Application for withdrawal of the amount is disposed of.

(P.R.BORA)
JUDGE

bdv/