

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

919 WRIT PETITION NO.7452 OF 2014

- . Shivkumar S/o Maruti Suryawanshi
Age: 40 years, Occu.: Service,
R/o.Shirur Anantpal,
Tq.Shirur Anantpal, Dist.Latur. ..Petitioner

VERSUS

- 1) The State of Maharashtra
Through the Collector, Latur,
Dist.Latur.
- 2) The Special Land Acquisition
Officer (Purna Project), Latur,
Tq. Dist.Latur.
- 3) The Executive Engineer,
Minor Irrigation Division,
Latur, District Latur. ..Respondents

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Advocate for Petitioner : Mr.V.D.Gunale
AGP for Respondents – State : Mr.P.K.Lakhotiya

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CORAM : R.M.BORDE, J.

DATE: 27th March, 2018

ORAL JUDGMENT :-

- 1) Heard.
- 2) Rule. With the consent of the parties, the
petition is taken up for final disposal at the
admission stage.

3) The petitioner is objecting to the order passed by the Civil Judge, Senior Division, Ahmedpur, directing the petitioner to furnish bank guarantee while withdrawing the amount granted towards acquisition of land.

4) The petitioner presented a Special Darkhast bearing No.422 of 2010 for execution of the Award passed by the Civil Judge, Senior Division, Ahmedpur. In the execution proceedings, while permitting withdrawal of compensation deposited by the State, the petitioner was directed to furnish bank guarantee for the amount, which was permitted to be withdrawn. The petitioner states that the imposition of condition in respect of furnishing bank guarantee is contrary to the view taken by this Court in several Judgments. The petitioner has invited my attention to the decisions rendered in Writ Petition Nos.249 of 2008 and 4103 of 2009 on 2.5.2008 and 3.8.2009 respectively.

5) The learned counsel appearing on behalf of the respondents informed that the State has presented First Appeal No.3201 of 2009 challenging the decision of the Reference Court and the appeal is admitted on 17.12.2009.

6) Though stay was granted by this Court on 8.2.2013, the decree was executed before the aforesaid date and the amount was permitted to be withdrawn by the petitioner.

7) Even otherwise, looking to the quantum of the compensation permitted to be withdrawn, I do not think it necessary to direct the petitioner to continue with the bank guarantee already furnished by him.

8) For the reasons recorded while disposing of the Writ Petition Nos.249 of 2008 and 4103 of 2009, the instant petition also deserves to be allowed and the same is accordingly allowed.

9) The condition imposed by the Executing Court directing the petitioner to furnish bank guarantee while withdrawing the amount in Special Darkhast No.422 of 2010 (old No.106 of 2008) is quashed and set aside and consequently, the petitioner is allowed to revoke the bank guarantee furnished by him in the aforesaid matter.

10) Rule is made absolute in the above terms.

(R . M . BORDE)
JUDGE