

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

909 CIVIL APPLICATION NO. 9629 OF 2018
IN
FA/805/2018

SUBHASH RAMA KADAM
VERSUS
EX. ENGINEER, LIFT IRRIGATION DIV.
OSMANABAD AND ORS.

.....

Mr. V.V.Ingle, Advocate for applicant.
Mr. V.R.Sonwalkar, Advocate for R – 1.
Mr. P.G.Borade, A.G.P for R – 2.

.....

CORAM: V.L.ACHLIYA, J.
DATE : 08/08/2018

ORAL ORDER :

1. The applicant has moved this application seeking withdrawal of compensation deposited by the appellant – acquiring body pursuant to the conditional order passed by this Court.
2. Heard learned counsel for the applicant and respondents. Perused the Award passed by Reference Court.
3. Learned counsel for respondent No. 1 – acquiring body opposed the application with the contention that the enhancement of compensation by Reference Court is more than five times the compensation assessed by Special Land Acquisition Officer. He submits that the reasons and findings recorded by the Reference Court are not sustainable in law as claimant has failed to prove the case for enhancement. He submits that in case the amount is allowed to be withdrawn, it will be difficult to recover the same in the event appeal is allowed or Award is modified.

4. On the other hand, learned counsel for the applicant submits that the compensation is awarded based upon the sale instance. Sale instance of similarly situated land three years prior to acquisition was taken into consideration. He submits that there is no merit in the appeal. It is further submitted that the amount deposited is only Rs. 1,30,000/-.

5. On due consideration of the submissions advanced and the grounds raised in the appeal, I am of the view that passing of following order would meet the ends of justice.

ORDER

[i] Subject to out-come of appeal, the applicant is permitted to withdraw 60% 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. On furnishing undertaking, the amount to the extent of 60% permitted to be withdrawn be transferred in the savings bank account of the applicants.

[ii] Balance amount of 40% of the amount deposited by acquiring body be invested in fixed deposit initially for a period of three years with direction to invest the same till further orders from the Court.

6. The application disposed of in above terms.

[V.L.ACHLIYA]
JUDGE