

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

CIVIL APPLICATION NO.14735 OF 2017
IN
FIRST APPEAL NO.371 OF 2014

Maruti s/o Parbatrao Chavan
(died), through his L.Rs.
Bapu Maruti Chavan and ors. ..Applicants

Versus

The Deputy Chief Engineer
(Construction), Central and anr. ..Respondents

Mr G.D. Kale, Advocate for applicants
Mr M.N. Navandar, Advocate for respondent no.1
Mrs V.N. Patil Jadhav, A.G.P. for respondent no.2

- WITH -

CIVIL APPLICATION NO.14744 OF 2017
IN
FIRST APPEAL NO.371 OF 2017

The Deputy Chief Engineer
(Construction), Central and anr. ..Applicants

Versus

Maruti s/o Parbatrao Chavan
(died), through his L.Rs.
Bapu Maruti Chavan and ors. ..Respondents

Mr M.N. Navandar, Advocate for applicants
Mr G.D. Kale, Advocate for respondents no.1-a to 1-d, 2 to 5
Mrs V.N. Patil Jadhav, A.G.P. for respondent no.6

**CORAM : S.V. GANGAPURWALA &
A.M. DHAVAL, JJ**

Date : 9th March 2018

PER COURT

1. Civil Application No.14744 of 2017 is filed by the acquiring body
with a prayer that the order of this Court is intact and the acquiring

body is not required to deposit remaining 50% under the award passed by the reference Court with further relief that the Collector, Latur be directed to permit the original claimants to furnish security in the form of Bank guarantee of nationalised Bank and that for 50%, the claimants are not entitled to withdraw the amount.

2. Civil Application No.14735 of 2017 is filed by the original claimants with a prayer to permit the applicants to withdraw the Bank guarantee submitted to this Court and the office be directed to make the payment of balance amount of compensation in favour of the applicants as per the order of the Apex Court.

3. The Apex Court has passed the following order :

“1. Leave granted.

2. In view of the order dated 11.09.2015 passed in Civil Appeal Nos.7070-7071 of 2015, these appeal (s) are also disposed of by directing that 50% of the enhanced compensation granted to the appellant(s) shall be released without security whereas balance of 50% shall be released to them on furnishing security to the satisfaction of the Collector.

3. The order (s) of the High Court is/are set aside and the appeal (s) are allowed.”

In Civil Appeal No.6695 of 2016, the Apex Court passed the following order:

“ The order of this Court dated 25.07.2016 disposing of the appeal is clear and to the effect that balance amount of the enhanced compensation will be paid to the appellants-land-owners on their furnishing security to the satisfaction of the Collector.

In view of the aforesaid clear direction, no further direction is called for. I.A. No.2 is accordingly disposed of.”

4. The order of this Court rejecting the application of the claimants seeking directions against the acquiring body to deposit the remaining 50% of the amount of compensation is set aside by the Apex Court and the Apex Court has permitted the applicants to withdraw 50% of the enhanced compensation granted to the claimants without security and balance of 50% is directed to be released on furnishing security to the satisfaction of the Collector.

5. It is submitted that the claimants have furnished security to the satisfaction of the Collector.

6. As per the order of the Apex Court, the claimants are allowed to withdraw 50% of the amount of enhanced compensation without security and the 50% is allowed to be withdrawn on security to the satisfaction of the Collector. The claimants have given Bank guarantee to this Court while withdrawing the amount to the extent of 30% on undertaking and 20% on furnishing security to the satisfaction of Registrar.

7. This Court, on 16th April 2014 had passed following order in Civil Application No.1448 of 2014 and Civil Application no.12584 of 2013 in First Appeal No.371 of 2014:

“ Heard learned Counsel for the parties. This application has been filed with a prayer for withdrawal of an amount of Rs.17,50,55,806/- which is deposited by the respondent no.1 in this Court by Cheque No.085544 dated 14.1.2014.

2. We have heard learned Counsel for the respective parties. We have also considered various orders passed by this Court while allowing the claimants to withdraw the amount deposited by the acquiring body. In our opinion, ends of justice would meet if the claimants are permitted to withdraw 30% of the total amount deposited by respondent no.1 by furnishing personal undertaking to this Court within two weeks from today to refund the said amount in case the appellant succeeds in the appeal. Such undertaking to be furnished by each of the applicants/claimants confined to their respective shares.

3. Hence, following order :

(1) The applicants/claimants are permitted to withdraw 30% of the total amount deposited by respondent no.1 by furnishing personal undertaking to this Court within two weeks from today to refund the said amount in case the appellant succeeds in the appeal. Such undertaking to be furnished by each of the applicants/claimants confined to their respective shares.

(2) The applicants/claimants are permitted to

withdraw 20% of the total amount deposited by respondent no.1 by furnishing security to the satisfaction of the Registrar (Judicial) of this Court.

(3) The applicants/claimants are permitted to withdraw 50% of the total amount deposited by respondent no.1 by furnishing bank guarantee of any Nationalized Bank or Scheduled Bank.

Application is allowed to above extent and stands disposed of.”

8 Thereafter on 18.7.2014, this Court had again modified the order to the extent that 20% amount of the total amount deposited by the respondents which was allowed to be withdrawn on furnishing solvent security was allowed to be withdrawn on furnishing Bank guarantee.

9. In view of the order passed by the Apex Court, the orders passed by this Court stand modified.

10. It is submitted that the acquiring body has subsequently deposited the remaining 50% amount of compensation. In view of the order passed by the Apex Court, we pass the following order :

(a) The Bank guarantee submitted by the applicants be returned to the applicants. The withdrawal of the remaining 50% amount as directed by the Apex Court shall be allowed after the claimants produced the certificate of the Collector that necessary security has been given by the claimants to the satisfaction of the Collector with regard to remaining 50% amount.

11. Civil Applications disposed of.

(A.M. DHAVAL, J.)

(S.V. GANGAPURWALA, J.)

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