

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CIVIL APPLICATION NO. 11205 OF 2015
IN FA/845/2015
(WITHDRAWAL)
GANGADHAR SHIVMURTI GADHAVE
VERSUS
THE MAHARASHTRA STATE ELECTRICITY DISTRIBUTION CO. LTD.
THR. THE EXE ENGINEER CIVIL CCM DIV. AND ORS.

...
Mr. S.B. Bhosale, Advocate for applicant
Mr. A.S. Shelke, Advocate for respondent no.1
Mr. A.D. Namde, Advocate for respondent no.2
...

CORAM : SUNIL P. DESHMUKH, J.
DATE : 20-03-2018

ORDER :

1. Heard learned counsel for the parties.
2. It appears that, 92 Are land of the applicant has been acquired for 33 KV sub-station of M.S.E.D.C.L. Applicant's land has been acquired in the year 1996. The award has been passed in 2000. For acquisition of land, compensation had been given at the rate of Rs.810/- per Are, whereas the applicant had demanded rate of Rs.6100/- per Are. Land acquisition reference court had under its award enhanced compensation amount to more than Rs.1,00,000/- per Are. Respondent - acquiring body has deposited entire awarded amount pursuant to the reference court's decision.

3. Applicant submits that land has been acquired and the applicant, since 2014, has not received any component of enhanced compensation. Applicant has been suffering various diseases and has incurred huge amount over medical expenses. Apart from aforesaid, he has to manage family affairs, including children's education.

4. Learned counsel for applicant contends that award on the basis of which reference court in present matter, has enhanced compensation, has been pending in first appeal at the instance of acquiring body before this court. In that matter, applicants have been allowed to withdraw 50% of the amount deposited.

5. Mr. Shelke, learned counsel for acquiring body hastens to add that as a matter of fact, only 50% of the awarded amount has been deposited in that matter. He further submits that in one more first appeal, in which reference court had awarded compensation at the rate of Rs.1,00,000/- and more per Are based on award of reference court referred to above, division bench of this court has allowed withdrawal of far less amount and that too, on medical grounds.

6. Learned counsel Mr. Shelke also purports to submit that as a matter of fact, evidence pressed into service in the form of sale instance of a land close by, shows that compensation granted is far beyond the value of the land.

7. Taking into account that applicant's land has been acquired around 1996, and contention on behalf of applicant about family needing money / amount for expenses including medical expenses being incurred, which position is not controverted and as on the date, award by land acquisition reference court is in their favour, it would be expedient to allow applicant to withdraw a sum of Rs. 50,00,000/- (Rs. Fifty Lakh) on following conditions :-

I) Rs. 25,00,000/- (Rs. Twenty Five Lakh) be allowed to be withdrawn by applicant upon filing an undertaking to the effect that the amount being so withdrawn, would be paid back / re-deposited in this court, within a period of three months from the date of decision in first appeal filed by acquiring body, in case the decision goes adverse to the interest of the applicant.

II) Amount of Rs.25,00,000/- (Rs. Twenty Five Lakh) be allowed to be withdrawn by applicant, on furnishing bank guarantee of a nationalized / scheduled bank, which shall be a continuing bank guarantee through the proceedings in first appeal.

8. Rest of the amount that would be lying balance in this court, be invested in a nationalized bank earning highest interest.

9. Hearing of first appeal no. 845 of 2015 to be expedited.

10. Civil application no. 11205 of 2015 is disposed of accordingly.

[SUNIL P. DESHMUKH]
JUDGE

arp/