

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

WRIT PETITION NO. 10997 OF 2018

PANDURANG BANSILAL BHUTADA
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

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Advocate for the Petitioner : Shri Bide Dnyaneshwar A.
AGP for Respondents 1 and 2 : Shri S.R.Yadav.
Advocate for Respondent 3 : Shri R.C.Patil.

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CORAM: RAVINDRA V. GHUGE, J.

DATE :- 06th October, 2018

Per Court:

1 I had heard the learned Advocates for the Petitioner and
Respondent No.3 on 03.10.2018 and had passed the following order :-

- "1 Shri R.C.Patil, learned Advocate, has graciously responded in this matter and has appeared on behalf of Respondent No.3 when he was called upon.
- 2 Considering that 50% of the compensation amount pursuant to the acquisition of land has been deposited and the Petitioner is directed by the LAR Executing Court to give a solvent surety to the extent of the amount that has been deposited, the learned Advocate for Respondent No.3 shall take instructions.
- 3 Stand over to 06.10.2018 (Saturday) for "Passing Orders".

2 The learned Advocate for the Petitioner places reliance upon
the Government Resolutions dated 03.11.2016 and 23.02.2017 by which,

the State has taken a policy decision, not to file the first appeals and not to challenge the orders of grant of compensation in the land acquisition matters in particular facts of a case. He submits that his case would be squarely covered by these two Government Resolutions and there is a possibility that the appeals filed would be withdrawn.

3 The learned Advocate for the Petitioner relies upon the following orders of the Honourable Supreme Court :-

- (a) The order dated 10.09.2013 in Civil Appeal No.8056/2013 in the matter of Wajidmiya Abdul Raheman Shaikh and others vs. Maharashtra Industrial Development Corporation and others.
- (b) The order dated 29.01.2018 in Civil Appeal No.1348/2018 in the matter of Kazi Moinuddin Kazi Bashiroddin and others vs. Maharashtra Tourism Development Corporation and another.
- (c) The order dated 06.01.2017 in Petition For Special Leave to Appeal (C) Nos.31499-31502/2015 in the matter of Digambar Manikrao Kalyankar vs. State of Maharashtra and another.
- (d) The order dated 30.01.2017 in Civil Appeal Nos.1279-1280 of 2017 in the matter of Madhukar and others vs. Executive Engineer, Minor Irrigation Division, Latur and others.

4 In the above stated orders, in cases where 100% of the amount has been deposited, the Honourable Supreme Court has granted leave to the beneficiary to withdraw 50% of the enhanced amount without

security and the remaining 50% of the amount with security.

5 There is no dispute that the acquiring body has deposited only 50% of the amount in LARD No.76/2016. The first appeal preferred by the acquiring body in this Court bearing No.2050/2016 has not fetched the acquiring body with any ad-interim protection. Hence, the execution proceedings are being proceeded with by the Executing Court.

6 In view of the above, this Writ Petition is allowed. The impugned order dated 14.06.2018 is modified and the Petitioner would be at liberty to withdraw the whole 50% amount deposited before the Executing Court without any condition.

7 Needless to state, on depositing the remaining 50% amount by the acquiring body, if this Petitioner moves the Executing Court for withdrawal of the amount, the same shall be considered by the Executing Court in the light of the orders of the Honourable Supreme Court referred to herein above.