

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

BENCH AT AURANGABAD.

**CIVIL APPLICATION NO.13339 OF 2016
IN
FIRST APPEAL NO.689 OF 2016**

Shashikant S/o Devidasrao
Kulkarni Arvikar. ... Applicant.

Versus

The Executive Engineer (C.R.)
Division, (Pune) and others. ... Respondents.

...
Mr.S.S.Manale, advocate for the Applicant.
Mr.P.S.Patil, Additional Government Pleader for
the State.
Mr.M.N.Navandar, advocate for Respondent No.1.

...

**CORAM : S.V.GANGAPURWALA AND
ARUN M. DHAVALA, JJ.**

Date : 12.01.2018.

PER COURT :

1. The present application is filed for
withdrawal of the amount deposited by the non-
applicant.

2. Mr.Manale, learned counsel submits that

the First Appeal is admitted. The appellant is entitled for withdrawal of the amount. The Reference Court after considering all the relevant aspects of the matter has granted fair amount of compensation.

3. Mr.Navandar, learned advocate for the non-applicant opposes the application on the ground that Reference Court has granted exorbitant compensation amount.

4. It appears that one Civil Suit was filed bearing RCS No.331/2002, in which the parties had arrived at the compromise and half share of the enhanced compensation amount was agreed to be distributed between the plaintiff and the defendants in respect of Gat No.18. The party to the said suit who is not party to the LAR has filed Civil Application bearing C.A.No.8316/2016, bringing on record the compromise decree. According to Mr.Manale, learned counsel, the decree can not be acted upon. It is not registered and the applicant of Civil Application No.8316/2016 is not abiding by

the decree.

5. Be that as it may, the decree is in force. In view of that, prima facie at this stage we can consider the claim of the present applicant to the extent of 50%. It is stated that in connected matters the Court has allowed withdrawal of 50% of the amount. In that case the applicant of Civil Application No.13339/2016 will be entitled for withdrawal of 25% amount only.

6. Out of 25% of the amount allowed to be withdrawn by the Court, 50% of the said 25% of the amount is allowed to be withdrawn on furnishing an undertaking to this Court that in case, this Court directs the applicant to deposit the amount, the applicant would deposit it within one month along with interest. Remaining 50% amount out of 25% amount allowed to be withdrawn shall be on furnishing solvent security and/or Bank guarantee of the Nationalised/Scheduled Bank. 75% of the amount be kept in Fixed deposit of the Nationalised Bank.

7. The Civil Application disposed of.

(ARUN M.DHAVAL, J.)

(S.V.GANGAPURWALA, J.)

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