

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

CIVIL APPLICATION NO. 72 OF 2018 IN FAST/12930/2016

SHANKAR VISHWANATH SHELKE
VERSUS
THE EXECUTIVE ENGINEER, OSMANABAD MEDIUM DIVISION,
OSMANABAD AND ORS

...
Advocate for Applicant : Mr. E. S. Murge.
Advocate for Respondent No.1 : Mr. G. B. Rajale.
AGP for Respondents No. 2 and 3 : Mr. B.V. Virdhe.

...
WITH CA/74/2018 IN FAST/12786/2016
WITH CA/75/2018 IN FAST/12653/2016
WITH CA/77/2018 IN FAST/12792/2016
WITH CA/79/2018 IN FAST/12789/2016
...

CORAM : K.K. SONAWANE, J.

DATED : 5TH JANUARY, 2018.

Order :-

Heard learned counsel for the applicants (original claimants) as well as learned counsel for respondent No. 1 - Acquiring Body and learned AGP for respondents No. 2 and 3.

2. The learned counsel for respondent No. 1- Acquiring Body fairly conceded that requisite order for withdrawal of the amount came to be passed in the companion matters and the claimants in that matters were permitted to withdraw the amount. Hence, he requested to pass similar nature of order in the interest of justice.

3. Perused the applications. Considering the reasons mentioned in the applications as well as in view of attending circumstances and the similar nature of order passed in companion matters, I do not find any impediment to allow the applicant/s (original claimant/s) for withdrawal of the amount. It would not just and proper to preclude the claimants from enjoying fruits of the decree passed by the trial Court. It is to be

noted that the respondent- Acquiring Body deposited only 60% of the compensation amount awarded by the Reference Court and withhold the remaining 40% amount of compensation as per order of this Court. In such circumstances, I do not find any impediment to allow the applicants for withdrawal of 90% of the amount deposited in this Court by respondent- Acquiring Body. Therefore applicants are hereby permitted to withdraw. 90% of the amount deposited by respondent Acquiring body in this case on furnishing undertaking to the effect that, in case, any adverse situation arises after adjudication of appeal on merits, the applicants-original claimants would refund the amount forthwith or as per order of this Court.

4. The Registry to disburse the amount mentioned above in favour of applicant/s (original claimant/s). The rest 10% of the amount deposited on behalf of respondent – Acquiring body in these appeals be invested in Fixed Deposit Receipts Account in any Nationalized Bank for a period of two years or till adjudication of appeals on merit, whichever is earlier.

5. Accordingly, civil applications stand disposed of in above terms.

[K. K. SONAWANE]
JUDGE

rrd.