

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

**CIVIL APPLICATION NO. 4590 OF 2018
IN
FIRST APPEAL NO.342 OF 2015**

Vithal s/o Tukaram Birajdar ...Applicant

Versus

The State of Maharashtra and Anr. ... Respondents

.....
Mr. N.B.Khandare, Advocate for applicant.
Mr Borade, AGP for respondent/State
Mr Dande, Advocate for respondent No. 2
.....

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

DATE: APRIL 06, 2018

PER COURT :

1. This Court had passed an order allowing withdrawal of the amount to the applicant with certain conditions. Aggrieved thereby, the applicant had approached the Apex Court. The Apex Court set aside the order passed by this Court and allowed the applicant to withdraw 50 % enhanced compensation without security and balance of 50 % is allowed to be released in favour of the applicant on furnishing security to the satisfaction of the

Collector.

2. Pursuant to the order passed by the Apex Court, the applicant approached the Collector. The Collector directed the applicant to give bank guarantee.

3. Mr. N.B.Khandare, learned counsel submits that the Collector has not properly applied his mind and asking security by way of bank guarantee is too harsh.

4. Mr. Dande, learned counsel for respondent No. 2 submits that the Collector has rightly passed the order.

5. The Apex Court had allowed withdrawal of balance 50% of the amount to the applicant on furnishing security to the satisfaction of the Collector.

6. The Collector pursuant to the order of the Apex Court, on an application by the applicant, directed the applicant to submit bank guarantee as a security for the said amount. The Collector has exercised the discretion pursuant to the order passed by the Apex Court.

7. It will not be open for this Court to substitute its discretion as against the discretion exercised by the Collector. The Collector was exercising power on the basis of

the order passed by the Apex Court.

8. In view of that, the prayer of the applicant cannot be considered. The Civil Application is disposed of.

(A.M. DHAVAL, J.)

(S.V.GANGAPURWALA, J.)

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