

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION NO.2632/2018
IN
FIRST APPEAL NO.1315/2014

Gopal Ganu Shelke ... Applicant
V/s.
State of Maharashtra
Through Special Land Acquisition Officer & Ors. ... Respondents

WITH
CIVIL APPLICATION NO.2633/2018
IN
FIRST APPEAL NO.1317/2014
WITH
CIVIL APPLICATION NO.2634/2018
IN
FIRST APPEAL NO.1318/2014
WITH
CIVIL APPLICATION NO.2635/2018
IN
FIRST APPEAL NO.1319/2014
WITH
CIVIL APPLICATION NO.2636/2018
IN
FIRST APPEAL NO.1320/2014

Mr. Mandar Limaye for the Applicant
Mr. A. R. Patil, AGP for the Appellant State

**CORAM: K.K. TATED &
S. K. SHINDE, JJ.**

DATED : AUGUST 20, 2018

P.C. :

1 Heard. By these Civil Applications, the Applicants are seeking permission to allow them to withdraw the remaining 70% of the

Basavraj
Gurappa
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compensation amount deposited by the State by furnishing a bank guarantee.

2 The learned counsel for the Applicant claimants seeks permission to carry out appropriate amendment in all these Civil Applications by adding prayer clause b(i) which reads thus:

“(b)(i) that the Applicants be allowed to withdraw the 70% balance amount on furnishing a bank guarantee to the satisfaction of the Reference Court.”

3 Considering the submissions made by the learned counsel for the Applicants, the Applicants are permitted to carry out appropriate amendment in all these Civil Applications, during the course of the day.

4 The learned counsel for the Applicants submits that in the present proceedings, the State of Maharashtra has issued Notification u/s.4 of the Land Acquisition Act, 1894 on 03.02.2000 for acquiring their land for Mumbai-Pune Express Highway Project. After following due process of law, the Special Land Acquisition Officer has declared award u/s.11 of the said Act and awarded compensation in respect of the acquired land. He submits that being aggrieved by the Award passed by the Land Acquisition Officer, all the claimants had preferred Reference under section 18 of the Land Acquisition Act, 1894. He submits that the Reference Court has, by judgment and award dated 02.04.2013 awarded compensation in respect of the acquired land @ Rs.1301 per sq.mtr. He submits that being aggrieved by the said Award, the State has preferred all these First Appeals which have already been admitted by this court and directed the State to deposit

the entire awarded amount in the Reference Court. He submits that the State has deposited the entire awarded amount in the Reference Court.

5 The learned counsel for the claimants submits that in the present proceedings, this court, by common order dated 29.06.2017 passed in Civil Application No.40/2017 and connected matters, permitted the Applicants claimants to withdraw 30% of the amount deposited by the Appellant State of Maharashtra on furnishing an undertaking before the Reference Court to the effect that in case it is required, they shall bring back the amount so withdrawn. He submits that by the present Civil Applications, the Applicants are seeking permission to withdraw remaining 70% of the amount, by furnishing bank guarantee.

6 On the other hand, the learned AGP for the State submits that, if the entire amount is withdrawn by the Applicant and if the Appellant State succeeds in the matter, it would be very difficult for them to recover the same.

7 It is to be noted that the claimants, on their own, made a statement that they are ready and willing to provide bank guarantee of any Nationalized Bank to the satisfaction of the Reference Court for withdrawal of remaining 70% amount.

8 Considering these facts, we do not find any reason to reject the claimants Application for withdrawal of the amount.

9 Hence, following order is passed:

- a. All Civil Applications are allowed and the claimants are permitted to withdraw 70% of the amount deposited by the Appellant State towards compensation in respect of the acquired land, along with accrued interest by furnishing bank guarantee of any Nationalized Bank to the satisfaction of the Reference Court within 12 weeks from today.
- b. If the amount is not withdrawn within stipulated time as stated hereinabove, the Reference Court is directed to deposit the said amount in the Fixed Deposit account of any Nationalized Bank till further orders.
- c. All the Civil Applications stand disposed of accordingly.

(S. K. SHINDE, J.)

(K. K. TATED, J.)