

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

**CIVIL APPLICATION NO. 803 OF 2018
IN
FIRST APPEAL NO. 1554 OF 2016**

Sopan Bhaguji Durge & Ors. ... Applicants

In the matter between

The Executive Engineer,
Chaskaman Project Division, Pune ... Appellant
V/s.

Sopan Bhaguji Durge & Ors. ... Respondents

**WITH
CIVIL APPLICATION NO. 802 OF 2018
IN
FIRST APPEAL NO. 1551 OF 2016**

Savita Avinash Kale ... Applicant

In the matter between

The Executive Engineer,
Chaskaman Project Division, Pune ... Appellant
V/s.

Savita Avinash Kale & Ors. ... Respondents

- Mr.Abhijit Singh i/b. Ms.Pallavi Potnis for the Applicants/Org. Respondents.
- Mr.A.R. Patil, AGP for the State.

CORAM : DR.SHALINI PHANSALKAR-JOSHI, J.

DATE : 19th OCTOBER, 2018.

P.C. :

- 1] Not on board. Upon mentioning taken on production board.
- 2] It is submitted by learned counsel for the Applicants/Org. Respondents that these two Appeals are from the same group, challenging the Judgment of the Land Reference Court arising out of the same award, in respect of which this Court has earlier passed the order dated 19th September, 2016.
- 3] In view thereof, similar order is passed as follows:
 - “i) These Applications are filed by the original claimants seeking withdrawal of the amount of compensation deposited by the Acquiring Body in this case.*
 - ii) In order to permit the Applicants to allow the withdrawal of the amount it is submitted that this Court will have to go into the merits of the Award passed by the Trial Court. As suggested by this Court and admitted by the learned counsel for the parties, it would serve the interest of justice, if the appeals are heard finally at this stage itself, as the only dispute raised in the appeals relates to the quantum of the compensation amount.*
 - iii) However, learned counsel for the Applicants-claimants submits that the Applicants-claimants have preferred the Appeals. They were unable to pay*

the Court fees thereon and for that purpose, the Applicants may be permitted to withdraw at least some of the amount.

- iv) Learned counsel for the Respondents takes objection to the same. However, considering the needs of the Applicants-Claimants and also having regard to the fact that only disputed issue is relating to the quantum of the compensation, it is necessary to permit the Applicants-Claimants to withdraw some of the amount of compensation as deposited by the Respondents in the Trial Court.*
- v) Both the Applications are, therefore, allowed partly. The Applicants-Claimants are allowed to withdraw 50% of the amount deposited in the Trial Court subject to usual undertaking but without security.*
- vi) If the Appeals are not heard within the period of six months from today, the Applicants-claimants are permitted to make an application for the balance amount also on providing solvent surety subject to discretion of the Court.”*

4] Both the Civil Applications are disposed of in above terms.

5] Both the Appeals be tagged along with First Appeal (St.)

No.14809 of 2014 and other connected Appeals therewith.

[DR.SHALINI PHANSALKAR-JOSHI, J.]