

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

C.A.F. NO.603/2018
IN
FIRST APPEAL NO.934/2013

Executive Engineer (V.I.D.C.), Lower Wardha Project Division, Wardha
 ..Vs..
 Annasaheb Mahadeorao Thakre and others

 Office Notes, Office Memoranda of Coram,
 appearances, Court's orders of directions
 and Registrar's orders

Court's or Judge's orders

 Shri U.A. Gosavi, Advocate for the appellant.
 Shri R.M. Vaidya, Advocate h/f Shri Anand Parchure, Advocate for
 respondent No.2(a) to 2(c).
 Ms. Mrunal Barabde, A.G.P. for respondent Nos.9 and 10.

CORAM : Z.A. HAQ, J.
DATE : 7.3.2018.

This application is filed by the claimants praying that the amount lying in deposit with the Registry of this Court be given to them.

This Court has passed an interim order, staying the execution of impugned award, however, on condition that the appellant deposits 75% of the amount as per impugned award. The appellant has deposited 75% of the amount. The respondents / claimants are permitted to withdraw 50% of the amount. Now the claimants are seeking permission to withdraw the balance amount.

The facts on record show that the land owned by the respondents / claimants, admeasuring 12.24 H.R. was acquired. The Land Acquisition Officer had granted

compensation at the rate of Rs.46,000/- per hector for the acquired land. The reference Court has enhanced the amount of compensation to Rs.2,50,000/- per hector.

The learned Advocates for the respective parties have pointed out the Government Resolutions dated 3rd November, 2016 and 23rd February, 2017 incorporating the policy of the State Government regarding filing of appeals to challenge the award passed under Section 18 of the Land Acquisition Act, 1894. These government resolutions lay down that appeal should not be filed to challenge the award passed under Section 18 of the Land Acquisition Act, 1894 if the amount of compensation granted by the Reference Court does not exceed four times the valuation of the land / property in question as per ready reckoner on the date of issuance of notification under Section 4 of the Land Acquisition Act, 1894.

The learned Advocates for the respective parties have submitted that the amount of compensation granted by the Land Acquisition Officer was based on the valuation shown in the ready reckoner at the relevant time and the amount of compensation granted by the Reference Court in respect of the land, will not exceed four times the amount of compensation granted by the Land Acquisition Officer and, therefore, it will not be more than four times the valuation of the land in question as per the ready reckoner, at the relevant time.

Considering the above policy of the State Government and as the appellant has deposited only

75% of the amount of award, the respondents / claimants can be permitted to withdraw the balance amount lying in deposit with the Registry of this Court.

Hence, the following order:

Out of the amount lying in deposit with the Registry of this Court, the respondents / claimants be given Rs.22,00,000/- (Rs. Twenty Two Lakhs) alongwith interest on it, if any, on their filing an undertaking to the satisfaction of Registrar (J.) of this Court that in case at the time of hearing of appeal, it is found that the respondents / claimants are not entitled for the amount withdrawn by them, they will re-deposit it alongwith interest on it as may be determined by this Court.

The undertaking be given by all the claimants.

The amount be given in the joint name of Shri Annasaheb Mahadeorao Thakre and Shri Amit Prakash Thakre i.e. respondent Nos.1 and 2(b).

The balance amount be continued in fixed deposit till the disposal of the appeal.

The civil application is **allowed** accordingly.

No costs.

JUDGE