

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

C.A.F. NO.605/2018
IN
FIRST APPEAL NO.620/2013

Executive Engineer (V.I.D.C.), Lower Wardha Project Division, Wardha
 ..Vs..
 Nishikant Annasaheb 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.1.
 Ms. Mrunal Barabde, A.G.P. for respondent Nos.2 and 3.

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

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

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 respondent / claimant is permitted to withdraw 50% of the amount deposited. Now the claimant is seeking permission to withdraw the balance amount.

The facts on record show that 4.78 hector land owned by respondent / claimant was acquired. The Land Acquisition Officer had granted compensation at

the rate of Rs.56,500/- per hector for 1.54 hector and at the rate of Rs.50,000/- per hector for 3.24 hector for the acquired land. The reference Court has enhanced the amount of compensation and has granted Rs.1,75,000/- per hector.

Relying on the Government Resolutions dated 3rd November, 2016 and 23rd February, 2017, it is submitted that the State Government has taken a policy decision that appeal should not be filed to challenge the award passed by the reference Court, if the amount of compensation determined by the Reference Court does not exceed four times the valuation of the acquired land as per the ready reckoner, on the date of issuance of notification under Section 4 of the Land Acquisition Act, 1894. The learned Advocate for the claimant has submitted that the amount of compensation determined by the Land Acquisition Officer was based on the valuation shown in the ready reckoner at the relevant time, and the amount of compensation determined by the Reference Court does not exceed four times the compensation granted by the Land Acquisition Officer.

Considering the policy of State Government incorporated in the above government resolutions and as only 75% of the amount of award is deposited, in my view, the respondent / claimant can be permitted to withdraw further amount, as per the following order:

(i) Out of the amount lying in deposit, the respondent / claimant be given Rs.6,00,000/- (Rs. Six Lakhs) on furnishing undertaking to the satisfaction of

the Registrar (J.) of this Court stating that in case at the time of hearing of the appeal, it is found that the claimant is not entitled for the amount withdrawn by him, he will redeposit it alongwith interest on it as may be determined by this Court, within three months.

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

The civil application is **allowed** accordingly.

No costs.

JUDGE

Tambaskar.