

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

WRIT PETITION NO. 4795 OF 2019

SHARDABAI WAMANRAO CHAUDHARI THROUGH LRS
GAJANAN LRS SHAKUNTALABAI GAJANANRAO & OTHERS
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

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Advocate for the Petitioners : Shri R. J. Nirmal
AGP for Respondent Nos.1 to 4 : Shri S. R. Yadav - Lonikar
Advocate for Respondent No. 5 : Shri B. R. Surwase

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**CORAM : RAVINDRA V. GHUGE, J.
DATED : 3rd AUGUST, 2019.**

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PER COURT :

1. The petitioners are aggrieved by the order dated 06/10/2015 passed by the Special Land Acquisition Officer, by which, the petitioners are permitted to withdraw the entire 50 % amount deposited by the acquiring body before the SLAO, by tendering a bank guarantee.

2. The reason for approaching this Court belatedly is that the petitioners are the L.Rs. of the original beneficiary. They are poor persons. They cannot afford to give a bank guarantee. In an identical matter arising out of the land of adjacent land owners having been acquired by the same

acquisition authority in the same public project, this Court has passed an order on 30/10/2018, in the matter of *Sharang Vinayak Chaudhari Vs. The Godavari Marathwada Irrigation Development Corporation, Ltd. Aurangabad and others, Civil Application No.12139/2018 in C.A.No. 4174/2018 in First Appeal No. 1775/2015*. By this order, out of the 100 % amount that was deposited, the applicant was permitted to withdraw 25 % amount with a simple undertaking, 25 % amount by furnishing a solvent security and 25 % of the amount by furnishing a bank guarantee.

3. The learned Advocate for the petitioners prays that the entire 50 % amount deposited, can be withdrawn by the petitioner by giving an affidavit undertaking for half of the amount and a solvent security for the remaining half of the amount.

4. The learned Advocate appearing on behalf of the acquiring body, as well as the learned AGP, strongly opposed.

5. In view of the above, this petition is partly allowed and the impugned order dated 06/10/2015 is modified as under :-

(a) Out of the entire amount deposited (which is actually

50 % of the enhanced compensation), all the petitioner L.Rs. shall withdraw half of the amount strictly as per the shares carved out by the LAR Court on internal page 4 of the Award, appearing at page No.29 of the petition paper book, by tendering their individual affidavit undertaking that if an adverse order is passed and it is concluded that these L.Rs. have withdrawn excess amounts, they shall re-deposit the said amounts before the same authority within a period of 3 months from the date of any such adverse order.

(b) These L.Rs. shall similarly withdraw the remaining half amount in the same proportions as per the shares carved out, noted as above, by furnishing a solvent security to the satisfaction of the competent authority, who shall not unnecessary delay the disbursement.

(c) In the event of this Court arriving at a decision in First Appeal No.1775/2015 adverse to the beneficiaries, who are parties to the First Appeals and are identically placed as like these petitioners, the said decision would apply to the case of the petitioners, as well.

(RAVINDRA V. GHUGE, J.)

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