

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

**CIVIL APPLICATION NO. 5452 OF 2019
IN
FIRST APPEAL NO. 3201 OF 2018**

Sau. Jayshri Nilkanth Falak
Through GPA Nilkanth Chintaman Falak ..APPLICANT

VERSUS

The Executive Engineer,
Waghur Project Division, Jalgaon and Another ..RESPONDENTS

**WITH
CIVIL APPLICATION NO. 5453 OF 2019
IN
FIRST APPEAL NO. 3202 OF 2018**

Suresh @ Ananda Rupa Chaudhari
Through GPA Nilkanth Chintaman Falak
and Another ..APPLICANTS

VERSUS

The Executive Engineer,
Waghur Project Division, Jalgaon and Another ..RESPONDENTS

**WITH
CIVIL APPLICATION NO. 5454 OF 2019
IN
FIRST APPEAL NO. 3200 OF 2018**

Lalu Rupa Chaudhari and Others
Through GPA Nilkanth Chintaman Falak ..APPLICANTS

VERSUS

The Executive Engineer,
Waghur Project Division, Jalgaon and Another ..RESPONDENTS

....

Mr. A.B. Kale, Advocate for applicants
Mr. S.D. Dhongade, Advocate for respondent no.1
Mr. S.S. Dande, A.G.P. for State

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**CORAM : SUNIL P. DESHMUKH AND
R.G. AVACHAT, JJ.
DATED : 26th APRIL, 2019**

ORDER :

Heard learned Counsel for applicants and learned Counsel for acquiring body and learned A.G.P.

2. These applications are for withdrawal of entire amount under award deposited in this Court. Learned Counsel for applicants points out that in respect of acquisition proceeding for the same project, during execution by other claimants, the amounts deposited towards compensation have been allowed to be withdrawn without any security. He submits that against present applicants only appeals have been preferred and in respect of other claimants, who have withdrawn amount, no appeal is preferred. It has further been referred to that the award amount pertains to Land Acquisition Act, 1894 and beyond the amount awarded by Collector / Land Acquisition Officer, no further amount is received and this has adversely affected them economically. Learned Counsel, therefore, urges to withdraw the entire amount deposited in this Court.

3. On the other hand, learned Counsel for acquiring body and learned A.G.P. submits that order passed by Reference Court enhancing the award is challenged by respondents by filing first appeal and stay to said order is also given by this Court. First appeal

in likelihood would succeed. An opportunity is due to acquiring body. On instructions, learned Counsel for acquiring body submits that applicants may be allowed to withdraw 50% of the amount deposited, subject to certain conditions.

4. In view of aforesaid, we deem it appropriate to balance the situation by directing applicants to withdraw 50% of amount deposited, subject to condition of furnishing undertaking to the extent of 25% of withdrawal to effect that in case decision in appeal is adverse to their interests, they shall re-deposit the amount within a period of six weeks from the date of decisions in the appeal/s and rest 25% would be allowed to be withdrawn on furnishing solvent surety. Rest of the amount to be invested in fixed deposit earning interest in nationalised banks.

5. Put up first appeal for final hearing at an early date upon submission of paper book.

6. Learned Counsel for petitioner additionally purports to refer that quite a few first appeals filed in this Court have been settled before Lok Adalat. In view of this, it is for the parties to take recourse accordingly.

SSD (R.G. AVACHAT, J.)

(SUNIL P. DESHMUKH, J.)