

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

CIVIL APPLICATION NO. 11744 OF 2018

IN

FIRST APPEAL NO. 5137 OF 2018

Ramesh Narayan Pande.

Applicant.

Versus

Chief Officer and another.

Respondents.

Mr. S.V. Gundre , Advocate for the applicant.

Mr. K.B. Jadhavar, Advocate for respondent No.1.

Mr. A.V. Deshmukh, A.G.P. for respondent No.2.

**CORAM : T.V. NALAWADE AND
SUNIL K. KOTWAL, JJ.**

Dated : 24 January 2019.

ORDER :-

. The application is filed for permission to withdraw the amount deposited as compensation by the appellant / Acquiring Body. The submissions made and the record show that this Court had granted stay in the appeal subject to deposit of 100% amount of compensation which is around 6.33 Crore. The record shows that an amount of Rs. 3.58 Crore came to be

deposited on 11.06.2018. Thus, around 50% amount of decretal amount is deposited.

2. Learned Counsel for the applicant is placing reliance on the orders made in First Appeal No.1908 of 2016 in which the learned Single Judge had given direction to the same Acquiring Body to deposit 100% amount of compensation. In that matter also the compensation was awarded at the rate of Rs. 50/- per sq.ft. by Reference Court and the matter had arisen out of the same common judgment which is under challenged in the present proceeding. In addition to the order dated 15.09.2017, there is an order dated 5.10.2018 passed by the other learned Single Judge in Civil Application No.5735 of 2018 filed in the same appeal and it shows that the learned Single Judge allowed the applicant / original claimant to withdraw 50% of the deposited amount.

3. This Court has carefully gone through the decision given by the Reference Court and it shows that on the basis of previous decision in one Land Reference, which had arisen out of the same acquisition and in which the same portion of Gut No.97 was acquired, the rate of Rs. 50/- per sq.ft. is considered by the Reference Court. The submissions made show that Appeal

No.1192 of 2017 was filed against this decision of Reference Court and the said appeal is still pending. Thus, the matter is not yet decided on merits, but there is order made in favour of other claimants in Civil Application No.5735 of 2018 filed in First Appeal No.190 8 of 2016.

4. In view of the aforesaid circumstances and the record, this Court holds that the amount deposited in this Court as per the order made by this Court at the time of granting stay, needs to be allowed to be withdrawn by the present applicant, on the same conditions as imposed by the learned Single Judge in Civil Application No.5735 of 2018. So, the following order.

ORDER

(i) The Application is allowed.

(ii) The applicant is permitted to withdraw 50% of the deposited amount on submitting an undertaking to the satisfaction of Registrar of this Court and to withdraw remaining 50% amount by furnishing bank guarantee or solvent surety of the like amount in this Court.

6. As the Acquiring Body has not deposited the remaining amount within the period prescribed by this Court in

the order dated 22.09.2017, it can be said that the stay got automatically vacated.

7. Civil Application is disposed of in aforesaid terms.

(SUNIL K. KOTWAL)
JUDGE

(T.V. NALAWADE)
JUDGE

vdd/