

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

968 CIVIL APPLICATION NO.11147 OF 2019
IN FA/38/2009 WITH CA/12522/2015 IN
X-OBJST/29659/2015

SHILADEVI DNYANESHWAR PAWAR
VERSUS
THE STATE OF MAHARASHTRA AND ANR

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Mr.T.M. Venjane, Advocate for applicant.
Mr.S.N. Morampalle, A.G.P. for respondent/State.

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CORAM: V.L. ACHLIYA, J.
DATE : 04.10.2019

ORAL ORDER:

The applicant-respondent-claimant moved this application seeking further withdrawal of balance amount of compensation of Rs.5,98,855/- for the reasons set out in detail in the application.

2. Heard learned counsel for the applicant-claimant and the learned A.G.P. for the respondents-appellants.

3. In brief, it is the say of the applicant that the land of the applicant was acquired way back in the year 1994 for the purpose of Rehabilitation of earthquake affected persons from Omerga Taluka.

Notification under section 4 of the Land Acquisition Act was issued on 07.12.1998. The Acquisition Officer has awarded the compensation of Rs.1/- per sq.ft. as against the claim of Rs.40,000/- per R. The Reference Court has enhanced the compensation from Rs.1/- to Rs.4/- per sq. ft. The appellant – acquiring body has preferred appeal against the enhancement of compensation.

4. Pursuant to directions given by this Court, the compensation amount of Rs.11,82,449/- with accrued interest of Rs.7,406/- has been deposited. Out of which the amount of Rs.6,00,000/- allowed to be withdrawn by order dated 26th March, 2010 passed by this Court in Civil Application No.1776/2010. It is submitted that the applicant is suffering from serious ailment. She was treated for the ailment of Intestine Tumor in the hospital at Pune. Learned counsel submits that, the applicant is suffering from Cancer. The Cancer has been detected after conducting Histopathology test and the applicant has produced the copy of discharge summary report.

5. The learned A.G.P. submits that the Reference Court has awarded excessive compensation. The interest granted is four times than the amount of compensation awarded by the Acquisition Officer. In case the applicant is permitted to withdraw the amount, it will difficult to recover the same in the event of appeal is allowed.

6. Pursuant to the directions given by the Court, the office has submitted Report. As per report, the amount of Rs.11,82,449/- was deposited by the appellant, out of which Rs.6,00,000/- paid to the applicant on 16.04.2010. The balance amount of Rs.5,82,449/- is lying invested. The interest accrued over the amount invested is reported to be Rs.6,30,904/-. The total sum of Rs.12,13,353/- is lying deposited with the Court.

7. On due consideration of over all facts of the case, the challenge raised in appeal, award passed by the Reference Court and the cause assigned for withdrawal of the amount, I am of the view that the request of the applicant deserves to be considered for

further withdrawal of amount. The land was acquired more than 25 years back. The claimant is still struggling for getting the legitimate amount of compensation. Appeal filed in the year 2009 is pending for hearing. It will take further time to decide the appeal on merits. The appellant has filed the Cross – Objection with condonation of delay which is also pending for consideration.

8. In the facts and circumstances of the case, I am of the view, the request of the applicant deserves due consideration and I am therefore inclined to partly allow the application. Accordingly the application is partly allowed. The applicant is permitted to withdraw the amount to the extent of Rs.3,50,000/- on furnishing an undertaking that in case the appellant succeed and the applicant – respondent is required to deposit any amount, the applicant-respondent shall deposit the same within eight weeks from the date of order.

9. The amount of Rs.3,50,000/- be paid to the applicant-respondent on furnishing

undertaking to the satisfaction of the Registrar (Judicial). The amount be paid/credited directly in the Saving Account of applicant on furnishing the particulars of Bank account.

10. Civil Application is disposed of in above terms.

11. List First Appeal for final hearing on 21st November, 2019.

[V.L. ACHLIYA]
JUDGE

SGA