

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

911. CIVIL APPLICATION NO. 13290 OF 2018
IN FA/3835/2017

Mahadeo Rakhmaji Kedar (died)
through legal representatives

...Applicants.

Versus

The Executive Engineer, M.I.D., Osmanabad & Anr. ..Respondents.

Mr. V.S. Tanwade, Advocate for applicants.

Mr. S.R. Dheple, Advocate for respondent No.1

Mr. P.M. Kulkarni, Asstt. Govt. Pleader for respondent No.2

CORAM : V.L. ACHLIYA, J.

DATE : 4th April, 2019

PER COURT :

1. Present application is filed seeking withdrawal of the amount deposited in terms of the award passed by the Reference Court.

2. It is submitted that the land admeasuring 1 hectare 97 R owned and possessed by the applicants-claimants was acquired in the year 1993. The Special Land Acquisition Officer awarded the compensation at the rate of Rs. 7200/- per acre and the same has been enhanced to Rs. 40,000/- per acre by the Reference Court. It is submitted that an amount of Rs. 13,41,186/- lying deposited by the acquiring body in terms of award passed by the Reference Court.

In the connected matters arising out of the same acquisition proceedings, this Court has allowed the claimants to withdraw the amount to the extent of 50% of amount deposited on furnishing undertaking and 25% on furnishing solvent surety to the satisfaction of the Registrar (Judicial). The balance amount directed to be invested in fixed deposit.

3. On the other hand, learned Counsel for the appellants-acquiring body opposed the application with contention that the appellants have good case to succeed in appeal. In case applicants are permitted to withdraw the amount, it will be difficult for the acquiring body to recover the said amount in the event appeal is allowed or award is modified.

4. Considering the submissions advanced and grounds raised in the appeal, I am inclined to allow the application in following terms.

ORDER

I) Applicants are permitted to withdraw the amount to the extent of 60% of the amount deposited on their furnishing written undertaking to the satisfaction of the Registrar (Judicial) on a condition that in case the award is set aside or modified, the applicants shall redeposit the amount within eight weeks from the

date of the order.

II) After making payment of 60% of the amount deposited, the balance amount together with interest accrued be invested in fixed deposit initially for a period of 28 months with State Bank of India, High Court branch, Aurangabad, with standing instructions to renew the same time to time till further orders from this Court or disposal of the appeal, as the case may be. The interest accrued over the amount invested be paid to applicants-claimants after the interval of every three months by crediting the amount in their saving accounts.

III) The application is disposed of in above terms.

(V.L. ACHLIYA)
JUDGE

Madkar