

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

**CIVIL APPLICATION NO. 11718 OF 2019
IN
FIRST APPEAL NO. 2608 OF 2018**

Netaji Kishanrao Salunke
Vs
The Executive Engineer

Mr.V.D.Salunke, Advocate for the applicant
Mr.G.O.Wattamwar, AGP for the respondent/State

**CORAM : SUNIL P. DESHMUKH &
S.M. GAVHANE, JJ.**

DATE : 27-09-2019

P.C. :-

1. Learned counsel for the applicant seeks leave to amend the application.

2. Leave granted as prayed for.

3. Learned counsel fairly points out that this is an application for withdrawal of amount of the share of the applicant in the land acquisition award and with further clarification that it does not impinge upon share of other claimants namely Shivaji or his legal heirs.

4. Learned counsel for the applicant also refers to the orders of the Apex Court in the Civil Appeal No. 5 of 2018 dated 04-

01-2018, Civil Appeal No. 8264-8271 of 2018 dated 14-08-2019 and Civil Appeal No. 5361-5365 of 2015 dated 10-07-2015 and quite a few orders passed by various benches of this Court.

5. Though the learned counsel appearing for respondent acquiring body has opposed the request made under the application, having regard to that award had been passed in 2014 and enhanced amount had not been paid and taking into account the orders passed by the Hon'ble Supreme Court from time to time, it would be expedient to pass following order:

ORDER

- i. 50% of the amount deposited in this court, is allowed to be withdrawn by the applicant/claimant on furnishing undertaking to the effect that in case the decision in the first appeal is against their interest, the amount being withdrawn will be re-deposited in this court within a period of eight weeks from the date of decision and the rest of the 50% amount deposited in this court with accruals thereon is allowed to be withdrawn on furnishing bank guarantee of a nationalized/scheduled bank.
- ii. Needless to refer to that withdrawal would be subject to final decision in the first appeal.
- iii. In view of above the application is disposed of.

[S.M. GAVHANE, J.]

[SUNIL P. DESHMUKH, J.]