

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

**905 CIVIL APPLICATION NO.13778 OF 2018
IN FA/4739/2017**

DNYANOBA BHAURAO BHANDARE
VERSUS
THE EX. ENGINEER, CIVIL CONSTRUCTION AND REPAIRS
DIVISION, MIDC, LATUR AND ORS

...
Advocate for Applicants : Mr. Chillarge Subhash S.
AGP for Respondents/State : Mr. S.J. Salgare
Advocate for Respondent No.1 : Mr. A.S. Shelke
...

**CORAM : P.R. BORA, J.
DATED : 01st March, 2019.**

PER COURT:-

1. Heard Shri Chillarge, the learned counsel appearing for the applicant and Shri A.S. Shelke, the learned counsel appearing for the acquiring body and Shri Salgare, the learned AGP appearing for the respondent-State.

2. Perused the impugned judgment and award and the grounds of objections raised in exception to the impugned judgment and award. It is brought to my notice that previously the acquiring body had filed First Appeal No.188 of 1999 at the time of filing of the said appeal. The acquiring body had deposited 25% of the total amount of compensation and the same was permitted to be withdrawn

by the claimants. In the aforesaid first appeal, this Court remitted the matter to the Reference Court for deciding it afresh whereupon, the Reference Court had decided it afresh and has maintained the amount of compensation at the same rate as was determined by it in the earlier judgment. The said order is challenged by the acquiring body by filing the appeal in this Court. The applicant has sought withdrawal of the entire amount whereas, the acquiring body has opposed for permitting such withdrawal. According to the learned counsel for the acquiring body since, 25% of the amount as was then due was permitted to be withdrawn by the claimants, nothing more than 25% of the deposited amount can be permitted to be withdrawn.

3. After having considered the submissions and after having considered all grounds of objections raised in exception to the impugned judgment and award, I deem it appropriate to pass the following order:

ORDER

- i) The application is allowed.
- ii) The applicant is permitted to withdraw 40% of the deposited amount on submitting an undertaking to the satisfaction of the Registrar of this Court.

(3)

- iii) Balance 60% of the amount be invested in Fixed Deposit Receipt in any nationalized bank, for the period till disposal of the appeal.
- iv) Civil application for withdrawal of amount stands disposed of.

(P.R. BORA, J.)

Mujaheed//