

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

905 CIVIL APPLICATION NO.13040 OF 2017
IN FA/2466/2010 WITH CA/13913/2010 IN FA/2466/2010

GUNDERAO MHADAJI BANDGAR AND ANR

VERSUS

THE STATE OF MAHARASHTRA AND ANR

...

Advocate for Applicants : Mr. Sontakke Gajanan K.
AGP for Respondents: Mr. S.N. Kendre
Advocate for Respondent No.2 : Mr. S.S.Dande

...

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

Date: September 13, 2019

...

PER COURT :-

- 1 Heard learned counsel for the applicants.
- 2 It is being referred to by the learned counsel for the applicants that amount is required for treatment to ailments being suffered by the applicants, who are old aged persons. They were allowed to withdraw amount on last occasion about nine years before. While main source of income under acquisition has been lost, for medical treatment, they are in need of 50% amount deposited in the Court. It is, therefore, being requested that the balance amount remaining in this Court pursuant to order dated 18-03-2011 be allowed to be withdrawn by the applicants.
- 3 Mr. S.S.Dande, learned counsel for MIDC, however, refers

to that treatment for ailments for which the amount is being sought to be withdrawn, the expenses therefor have not been specifically referred to. He submits that MIDC would be in difficulty, in case the appeal filed by it is allowed and it would come to recovery of the amount from the applicants. It is being referred to that, such a difficulty is being faced by MIDC now, where the enhanced amount of compensation granted by the Reference court is reduced in the appeal. He further purports to refer to that in a few cases, this court as well as the Honourable Supreme court had declined to accede to the request for withdrawal of the entire amount deposited in the court. In the circumstances, he proposes to oppose the request made in the application.

4 Having regard to the circumstances while the ailments being suffered do not appear to be in dispute and expenses being required for treatment to the same, it would be expedient to allow the applicants to withdraw a reasonable sum.

5 In the circumstances, the applicants are allowed to withdraw a sum of Rs.20,00,000/- (Rupees Twenty lakh) from the balance amount remaining deposited in this court. Rs.10,00,000/- (Rupees Ten lakhs) subject to filing undertaking to the effect that, in the event the appeal is decided against them, they would deposit the amount back in this court within a period of two months from the date of the decision and Rs.10,00,000/-

(Rupees ten lakh) be allowed to be withdrawn by the applicants subject to furnishing bank guaranty of nationalized/scheduled bank.

6 The application is accordingly disposed of.

(S. M. GAVHANE, J)

(SUNIL P. DESHMUKH, J)

vbd