

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

951 CIVIL APPLICATION NO.14744 OF 2018
IN FA/1000/2019

SHIVAJI CHANDRABHAN SATHE (DEAD) THR LRS TANHABAI AND
ORS

VERSUS

THE DEPUTY CHIEF ENGINEER, NIRMAL CENTRAL RAILWAY,
PUNE DIVISION, PUNE AND ANR

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Advocate for Applicants : Mr. D.R. Jaybhar
Advocate for the Respondent No.1 : Mr. M.N. Navandar
AGP for Respondent No.2 : Mr. P.M. Kulkarni

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CORAM : V.L. ACHLIYA, J.

DATED : 05th APRIL, 2019

PER COURT:-

1. The applicants – claimants have moved this application for withdrawal of amount of Rs.2,06,322/- deposited by the appellant – acquiring body.

3. Heard the learned counsel for the applicant and the counsel representing the acquired body i.e. appellant.

4. In brief it is the contention of the learned counsel for the applicant that the land was acquired for the purpose Ahmednagar-Beed-Parali Railway Marg and the possession of the land was taken in the year 2003. The award was passed in the year 2004. The S.L.A.O has granted compensation to the tune of Rs.900 per R and the same is enhanced by the Reference Court to the tune of Rs.2,632/- per R for Bagayat land and Rs.1,755/- per R for dry land. In the background of the over all facts of the

case, the learned counsel submits that the applicants – claimants, though deprived of the land acquired in the year 2003, they have not received compensation amount and urged to allow withdrawal of the amount deposited by the acquiring body.

5. On the other hand, the learned counsel for the appellant-acquiring body oppose the application with contention that the appellant has good case to succeed in Appeal. He submits that the compensation awarded is on higher side.

6. Considering the overall facts of the case and the enhancement granted by the Reference Court as well as the fact that the claimants have been deprived of the fruits of litigation for a period of about 15 years, I am of the view that passing of following order would meet the ends of justice :-

ORDER

[I] Subject to out come of appeal, the applicants - claimants are permitted to withdraw 60% of amount deposited by the acquiring body on furnishing undertaking to the satisfaction of the Registrar (Judicial) to the effect that in the event the appeal is allowed or award is modified or set aside and the applicants - claimants are required to re-deposit the amount withdrawn, the applicants - claimants shall deposit the same within a period of eight weeks from the date of such order.

[ii] After allowing the withdrawal to the extent of 60% amount, the balance amount be invested in the fixed deposit initially for a period of 28 months with any Nationalised Bank with standing instructions to renew the same till further orders from the Court.

C] The interest accrued over the amount invested in the fixed deposit be paid to the applicants - claimants after interval of every three months by transferring the amount in their joint account.

D] The application is disposed of in above terms.

(V.L. ACHLIYA)
JUDGE

SPR