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

**947 CIVIL APPLICATION NO.524 OF 2019
IN FA/1661/2013 WITH CA/525/2019 IN FA/1656/2013
WITH CA/526/2019 IN FA/1657/2013 WITH CA/527/2019
IN FA/1655/2013 WITH CA/528/2019 IN FA/1660/2013
WITH CA/529/2019 IN FA/1659/2013 WITH CA/530/2019
IN FA/1658/2013 WITH CA/531/2019 IN FA/1654/2013**

**DNYANOBA NAGOBA DANDIME
VERSUS
THE STATE OF MAHARASHTRA AND ORS**

...

Advocate for Applicants : Mr. R.K. Ashtekar
AGP for Respondents : Mr. A.M. Phule
Advocate for Respondent No.2 : Mr. A.N. Gaddime

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**CORAM : P.R. BORA, J.
DATED : 09th JANUARY, 2019.**

PER COURT:-

. Heard Shri Ashtekar, the learned counsel appearing for the applicants and Shri Gaddime, the learned counsel appearing for the acquiring body.

2. Shri Ashtekar submitted that in the present matters interim stay was granted by this Court for execution of the awards impugned in the present appeals subject to deposit of the entire amount under the award along with interest accrued thereon by the acquiring body within the period of twelve weeks from the date of the said order. The learned counsel further submitted that since the

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acquiring body did not deposit the amount within the stipulated period, the interim stay so granted stood automatically vacated. The learned counsel further submitted that the applicants have therefore approached the executing Court by filing execution proceedings.

3. The learned counsel further submitted that in the execution proceedings, the acquiring body has deposited the entire amount of compensation as well as the interest till the date of deposit of the said amount. It is further contended that since no stay was operating at the relevant time, the executing Court has permitted the withdrawal of the said amount. The executing Court however, on the ground that the appeal is pending and the amount involved is huge amount directed the present applicants to furnish bank guarantee of the nationalized bank and subject to that permitted the withdrawal of the said amount.

4. The learned counsel submitted that writ petitions were filed challenging the said order before this Court however, in the meanwhile since this Court vide order passed on 26.11.2018 stayed

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the execution of the impugned judgment and award. The said writ petitions were withdrawn by the applicants with liberty to file applications for withdrawal before this Court.

5. The learned counsel submitted that the Reference Court has passed the well reasoned order and has moderately enhanced the amount of compensation. As such, he has prayed for withdrawal of the entire said amount. The learned counsel for the acquiring body Shri Gaddime has opposed for withdrawal of the entire amount. The learned counsel submitted that considering the objections raised by the acquiring body in exception to the impugned judgments at the most 50% of the amount can be permitted to be withdrawn.

6. After having considered the submissions made by the learned counsel appearing for the parties and on perusal of the impugned judgments, I deem it appropriate to pass the following order:

ORDER

- i) The applicants are permitted to withdraw 60% of the deposited amount on submitting an undertaking to the satisfaction of the

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Reference Court.

- ii) After furnishing such undertaking, the Reference Court shall remit the amount to the applicants as aforesaid permitted to be withdrawn by this Court.
- iii) The Reference Court shall invest the balance amount in any nationalized bank for the period till disposal of the appeal.
- iv) Civil applications for withdrawal of amount stand disposed of.
- v) With consent of the parties, list the present group of appeals for final disposal on 19.02.2019.

(P.R. BORA, J.)

Mujaheed//