

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD.
CIVIL APPLICATION NO. 302 OF 2019
IN
FIRST APPEAL (ST.) NO. 1760 OF 2016**

Shrirang Hariram Shelke & anr.

Applicants.

Versus

M.I.D.C. Latur and others.

Respondents.

Mr. A.N. Irpatgire, Advocate for the applicants.

Mr. A.V. Deshmukh, A.G.P. for respondent Nos.1 & 2.

Mr. Girish Kulkarni, Advocate for respondent No.3.

**CORAM : T.V. NALAWADE AND
SUNIL K. KOTWAL, JJ.**

Dated : 5 February 2019.

ORDER :-

. The application is filed for permission to withdraw compensation amount deposited by the Acquiring Body. Both the sides are heard.

2. Learned Counsel representing the branch of Baliram, the brother of present applicants, is also heard.

3. learned Counsel for the applicants placed reliance on the order made by this Court in Civil Application No.2518 of 2017

filed in First Appeal (Stamp) No. 1764 of 2016 dated 2 March 2017. It was in respect of the same award of the Special Land Acquisition Officer and this Court allowed the applicant therein to withdraw 75 % of the amount deposited as compensation and remaining amount was directed to be kept in fixed deposit as investment.

4. The submissions made show that a son of Baliram has filed suit for partition against his father, brother and also the present applicants. The submissions made show that the son of Baliram is not disputing that Baliram and his two brothers had equal share in the acquired property i.e. each of them had one-third share. In the present matter, the Acquiring Body has deposited almost one-third share in the names of each of the three brothers like Tulshiram, Baliram and Shrirang. So, the order needs to be made in the same terms in which the Civil Application No. 2518 of 2017 was allowed and this Court is passing the following order.

(i) The applicants shall be permitted to withdraw 25% of the amount out of total amount deposited, on furnishing personal undertaking to this Court that in the event of success of appeal, he will refund the amount within a period of one month from the

date of issuance of such order.

(ii) The applicants are permitted to withdraw further sum of 25% of the amount out of the total amount deposited, on furnishing solvent surety in the like amount.

(iii) The applicants are permitted to withdraw further sum of 25% of the amount out of the total amount deposited, on furnishing Bank Guarantee of a Scheduled Bank or Nationalized Bank in the like amount.

(iv) Balance 25% amount out of the total amount deposited by the Acquiring Body in this Court shall be invested in fixed deposit receipts initially for a period of three years and the fixed deposit receipts be renewed thereafter until disposal of appeal.

5. This order is not in respect of the amount deposited for Baliram.

6. Civil Application is disposed of accordingly.

(SUNIL K. KOTWAL)
JUDGE

(T.V. NALAWADE)
JUDGE

vdd/