

**IN THE HIGH COURT OF BOMBAY AT GOA**

MISC.CIVIL APPLICATION NO. 477 OF 2019

IN

FIRST APPEAL NO. 141 OF 2018

LATA NAIK AND ANR.,

... Applicants

Versus

THE EXECUTIVE ENGINEER, PWD, DIV  
II, PONDA.,

... Respondent

Adv. Pundalik N. Raiker for the Applicants.  
Ms. Priyanka Kamat, Addl. Government Advocate for the  
Respondent.

Coram:- M. S. SONAK &  
NUTAN D. SARDESSAI, JJ.

Date:- 6th September, 2019

P.C.:

Heard Mr. Raiker, the learned counsel for the applicants and  
Ms. P. Kamat, the learned Additional Government Advocate for  
the Respondent.

2. This is an application by which the applicants, who are  
respondents in First Appeal No.141/2018 seek withdrawal of the  
compensation amount deposited by the State in this Court as a  
pre-condition for stay on the execution of the impugned award.

3. Ms. Kamat, the learned Additional Government Advocate on

basis of instructions states that the State will have no objection if 30% of the deposited amount is withdrawn, subject to furnish of an undertaking. She, however, objects to the withdrawal of any further amounts but submits that the hearing of the appeal itself may be expedited.

4. Mr. Raiker, the learned counsel for the applicant states that the applicants may be permitted to withdraw 30% of the amount by furnishing an undertaking and the balance 70% against a Bank Guarantee from a Nationalized Bank.

5. The land which came to be acquired is in Taleigao and compensation of Rs.2000/- per sq.mtr. has been awarded by the Reference Court. The applicant has also filed Cross Objections, in which, they have applied for further enhancement of the compensation. Since the applicants offer to secure the amount by furnishing a Bank Guarantee from a Nationalized Bank, we see no difficulty in accepting the request made by Mr. Raiker on behalf of the applicants.

6. Accordingly, we dispose off this application in the following terms:

(a) The applicants are permitted to withdraw 30% of the deposited amount from the Registry by furnishing an undertaking

that such withdrawal will abide by the final orders in the appeal and if necessary, the applicants will bring back the said amount to the Court along with interest as may be determined by this Court at the stage of final disposal;

(b) The applicants are also allowed to withdraw the balance 70% of the deposited amount upon filing an undertaking in the aforesaid terms as well as furnishing a Bank Guarantee of a nationalized bank to the satisfaction of the Registrar (Judicial) of this Court. The Bank Guarantee will have to be kept alive until the disposal of the First Appeal no.141/2018 or till such further period as may be directed at the stage of final disposal.

(c ) The aforesaid withdrawal shall abide by the final orders in the main appeal.

7. The copy of the Bank Guarantee and copies of the undertakings which the applicants furnish in the Registry must be furnished to the learned Additional Government Advocate appearing for the State.

8. The learned counsel for the applicants states that the office objection in relation to the Cross Objections will be cleared within four weeks from today and further copy of the same will

be furnished to the learned Additional Government Advocate.

9. All concerned to act upon an authenticated copy of this order.

NUTAN D. SARDESSAI, J.

M. S. SONAK, J.

ap/-