

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

**CIVIL APPLICATION NO.4241 OF 2020
IN
CIVIL APPLICATION NO.8378 OF 2015
IN
FIRST APPEAL NO.57 OF 2015**

Hamild Ali Khan s/o Mahiboob
Ali Khan, Died, through L.Rs.

Qaisar Banu w/o Abdul Muquesith Khan,
age-69 years, Occu:Household,
R/o-Aurangabad,
and others.

...APPLICANTS

VERSUS

The State of Maharashtra,
Through the Collector, Latur
and others.

...RESPONDENTS

...
Mr. Y.M. Khan Advocate for Applicants.
Mr. S.K. Tambe, A.G.P. for Respondents No. 1 and 2.
Mr. V.D. Gunale Advocate for Respondents No. 3 to 12.
...

**CORAM: SUNIL P. DESHMUKH AND
R.G. AVACHAT, JJ.**

DATE : 4th SEPTEMBER, 2020

ORDER :

1. Heard learned counsel for the parties. Learned counsel appearing for the applicants has tendered an affidavit stating that applicant No. 2(iii) "Mohammad Farooq Khan s/o Jamshid Ameer Alik Khan" is the same who is described as "Farooq Khan s/o Jamshed Khan" in first appeal No. 1089 of 2011 and first appeal No. 57 of 2015.

2. Further, learned counsel for the parties do not have and dispute over the sharing as has been shown in the documents appended to the application.

3. It has been submitted by learned counsel that while interim relief had been granted to the State and acquiring body, only 50% of the award amount was directed to be deposited in this court. It is further submitted that the applicants – claimants from the amount deposited in this court were allowed to withdraw 25% of the amount with security. According to learned counsel for applicants, this withdrawal was only 12.5% of the

total awarded amount. Over this aspect, there does not appear to be any dispute.

4. Learned AGP submits that for the amount which is not deposited, the claimants will have to prosecute the execution proceeding and it will be expedient that amount lying in this court be remitted to the executing court.

5. Having regard to the circumstances that the acquisition is of 1993 and the land reference award is of 2011 and the claimants have received 12.5% of the total awarded amount, it would be expedient to allow the application instead of sending claimants to executing court for the amount which is already lying in this court, entitlement of the same being not disputed and there is no reference to any further proceeding been taken against the decision of this court.

6. As such, application is allowed in terms of prayer clauses "(B)" and "(C)", subject to applicants – claimants filing undertaking on affidavit in this court, in case of any dispute, either inter-se amongst the claimants and/or about their identification or otherwise, they will indemnify the acquiring body

and the State. Further that the claimants while withdrawing the amount and filing undertaking, shall produce copies of proper identification documents.

7. Civil Application stands disposed of, accordingly.

[R.G. AVACHAT, J.]

[SUNIL P. DESHMUKH, J.]

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