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IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

CIVIL APPLICATION NO.5290 OF 2020 IN
FIRST APPEAL ST. NO.8777 OF 2020

Nishat Fatema w/o Javed,
Since deceased, through L.Rs.
Mohammad Javed Akhtar Mohammad
Rahamtulla & ors. ... APPLICANTS

VERSUS

City Industrial Corporation & anr. ... RESPONDENTS

.....
Shri Pranjal A. Bhandari, Advocate for applicants
Shri A.S. Bajaj, Advocate for R.No.1
Shri A.V. Deshmukh, A.G.P. for respondent No.2
.....

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

DATE : **15th OCTOBER, 2020**

ORDER :

1. Heard learned counsel for the appearing parties.
Learned counsel for the applicants contends that, the acquisition proceedings are of 2001. The compensation has been determined looking at relevant factors. This Court has directed only 50% of the amount awarded to be deposited for staying the operation of the impugned award. He submits that, 50% amount deposited is too meagre, looking at the rate which the lands fetch. He submits that the applicants are deprived of earnings from their lands. The applicants are in need of the

compensation amount.

2. Learned counsel Mr. Bajaj appearing for the acquiring body vehemently submits that, the Reference Court went on to determine the compensation rate erroneously referring to other land while land rate of the very land survey number is much less. He submits, the lands sold from the very survey number of acquired land had fetched one third less than the one fetched by the land referred to in the impugned decision.

3. While entitlement to compensation and need by claimants is not seriously disputed and the land is acquired in 2001, since then the proceedings are pending, we deem it expedient to allow the application for withdrawal of the compensation amount deposited, subject to conditions.

4. As such, half of the deposited amount pursuant to order of this Court dated 09-03-2020 in this court be allowed to be withdrawn by the applicants on furnishing undertaking on affidavit that in case of an adverse verdict to the interest of applicants in the First Appeal, the excess amount of compensation withdrawn would be redeposited in this court within a period of eight weeks from the date of decision of this

court. Rest of the half amount deposited as referred to above, be allowed to be withdrawn by the applicants on furnishing solvent security to the satisfaction of the Registrar (Judicial) of this Court.

5. Civil Application is accordingly disposed of.

[R. G. AVACHAT]
JUDGE

[SUNIL P. DESHMUKH]
JUDGE

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