

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

950 CIVIL APPLICATION NO.14715 OF 2019
IN FA/5188/2017 WITH CA/14716/2019 IN FA/5189/2017

SUGLABAI APPARAO VHADLE (DEAD) THR LRS SHIVAJI AND ORS
VERSUS
THE STATE OF MAHARASHTRA AND ORS

Advocate for Applicants : Patil Laxmikant C. Patil Laxmikant C.
AGP for Respondents: Mr. R.B. Bagul
Adv. For respondent Nos. 2 and 3 : Mr. A.M. Gaikwad.

CORAM : K.K. SONAWANE, J.

DATE : 14TH JANUARY, 2020.

PER COURT:

1] Heard learned counsel for the applicant, learned AGP for State and learned counsel Shri A.M. Gaikwad for the respondent Acquiring Body. Perused the application and other relevant documents produced on record.

2] The applicant has moved this application seeking withdrawal of the decretal amount deposited in this court on behalf of the Acquiring Body pursuant to the judgment and award passed by the learned Reference Court under Section 18 of the Land Acquisition Act. The learned counsel for the applicant submits that the applicants preferred Reference petition under Section 18 of the Land Acquisition Act for enhancement of compensation amount for their acquired land. The learned Reference Court, appreciated evidence on record and partly allowed the reference petition under

the impugned judgment and award. Dissatisfied with the amount awarded, the respondent Acquiring Body filed First appeal to redress its grievances. During pendency of the appeal, the acquiring body has deposited the decretal amount as directed by this court. Therefore, the applicants have moved the present application seeking permission to withdraw the compensation amount deposited by the Acquiring body in this court.

3] The learned counsel for the applicants fairly conceded that the Reference court in clause No.6 of the operative part of the impugned judgment, issued direction to the appellant acquiring body to pay interest on the enhanced compensation amount @ 9% from the date of taking possession by the Acquiring Body and @15% from the date after expiry of one year thereafter. According to learned counsel for the applicant, the Acquiring Body has deposited the amount of interest in this case from the date of award and not from the date of taking possession by the Acquiring Body. Learned counsel Shri Gaikwad for the Acquiring Body produced a copy of the calculation sheet prepared by the Acquiring Body showing the amount deposited by the Acquiring Body. Same is taken on record and marked "X" for the purpose of identification. In such circumstances, there is no impediment to allow the application for withdrawal filed by the applicants.

4] Hence, the application is allowed. The applicants are allowed to withdraw 50% of the amount deposited by the Acquiring Body in this court subject to condition that the applicant shall furnish an undertaking to the satisfaction of the Registrar (Judicial) of this Court, to the effect that in case adverse situation arises after adjudication of the appeal on merit, in favour of appellant acquiring Body, the applicants will refund the amount forthwith as per the

directions of this Court. Rest of the 25% amount be allowed to be withdrawn by the applicant on furnishing solvent surety. Balance 25% of the amount deposited on behalf of appellant acquiring body be invested in any nationalized bank for a period of two years or till adjudication of appeal on merit, whichever is earlier. Registry to do the needful for disbursement of amount as referred supra, in favour of the applicants as per rules. Application for withdrawal of amount stands disposed of accordingly.

[K.K. SONAWANE]
JUDGE.

Grt/-.