

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

**908 CIVIL APPLICATION NO.12804 OF 2019
IN
FIRST APPEAL NO.1046 OF 2020**

**BABASAHEB SAHEBRAO CHAVAN
VERSUS
THE STATE OF MAHARASHTRA & OTHERS**

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Mr.Kumar Gaurav M.More, Advocate for the
applicant – claimant.

Mr.P.M.Kulkarni, AGP for the respondent-
State.

Mr. Anil M.Gaikwad, Advocate for the
respondent nos.2 and 3.

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**CORAM : V.L.ACHLIYA,J.
DATE : 09.12.2020**

P.C.

1] The applicant–claimant has moved
this application seeking withdrawal of the
amount.

2] Heard learned counsel for the
applicant - claimant and the appellant-
acquiring body. Perused the order granting
stay to the award passed. This Court has
granted stay to the execution of the award
subject to deposit of amount to the extent of

50% of the amount awarded by the Reference Court.

3] In brief, it is the contention of the learned counsel for the appellant-acquiring body that the SLAO has awarded the compensation @ Rs.3380/- per Are which has been enhanced to Rs.3750/- per Are without any evidence supporting to such enhancement adduced on the part of the applicant-claimant. So also on account of fruit bearing trees the SLAO has awarded sum of Rs.3 lac which has enhanced to Rs.4 lac. In that view, the amount awarded by the Tribunal is excessive. So also the interest has been awarded is contrary to the decision of the Full Bench in the case of ***State of Maharashtra Vs. Kailash Shiva Rangari*** reported in ***2016 [3] Mh.L.J. 457.***

4] On the other hand, learned counsel for the applicant - claimant submits that the amount deposited is only to the extent of 50% of the amount awarded by the Reference Court. Even if the award is modified, no prejudice would cause to the appellant-acquiring body.

5] On due consideration of the

submissions advanced and taken into consideration that this Court has granted stay to the execution of the award on deposit of 50% of compensation determined by the Reference Court, I am of the view that the applicant-claimant deserves to be permitted to withdraw the amount to the extent of 75% of the amount deposited by the appellant-acquiring body on furnishing undertaking. Accordingly, the application is partly allowed. The applicant-claimant be permitted to withdraw the amount to the extent of 75% of the amount deposited on furnishing written undertaking to the effect that in the event the award is set aside or modified by this Court, the applicant-claimant shall re-deposit the amount within eight [8] weeks from the date of passing of such order. The amount be paid only through transfer in the savings bank account of the applicant on furnishing written undertaking.

6] After making amount to the extent of 75% to the applicant-claimant, the balance amount be invested in Fixed Deposit till disposal of Appeal, if not already invested.

7] Civil Application is disposed of in
above terms.

[V.L.ACHLIYA]
JUDGE

DDC