

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

**CIVIL APPLICATION NO. 16546 OF 2016
IN
FIRST APPEAL NO. 2443 OF 2010**

Yakub Haidar Shaikh (Died)

Through L.Rs.

Matbabee Yakub Shaikh and Others

..APPLICANTS

VERSUS

State of Maharashtra and Another

..RESPONDENTS

....

Mr. A.B. Kale, Advocate for applicants

Mr. G.O. Wattamwar, A.G.P. for respondent no.1

Mr. S.S. Dande, Advocate for respondent no.2

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CORAM : SUNIL P. DESHMUKH AND

R.G. AVACHAT, JJ.

DATED : 31st JANUARY, 2020

PER COURT :

The parties are ad idem that the award from the same notification of land acquisition had been subjected to challenge before the reference Court by claimants. The award of reference Court has been appealed from by the acquiring body before this court.

2. In a group of 12 matters of first appeal arising from said land acquisition references, this Court, in rest of 11 matters save present appeal, had directed the acquiring body to deposit 50% of award amount.

3. Applicants point out that in their matter initially this court had directed 100% deposit of award amount, however, had allowed withdrawal of only 50% amount.

4. The claimants in the eleven appeals referred to above had been before the Supreme Court for directions to have payment of entire award amount and the Supreme Court had passed following order :-

“In view of order dated 11th September, 2015 passed in Civil Appeal Nos. 7070-7071 of 2015, these appeals are also disposed of by directing that 50% of the enhanced compensation granted to the appellants shall be released without security whereas balance of 50% shall be released to them on furnishing security to the satisfaction of the collector. Let the State to deposit the awarded amount in question within three months to enable the parties to ensure compliance of this order. Needless to say deposit/withdrawal shall be subject to final adjudication in these appeals.”

5. Learned Counsel for the applicants submits that in the circumstances, the applicants be allowed to withdraw balance of 50% amount deposited in this appeal having regard to the order passed by Supreme Court. In view of the same, following order :-

(I) Civil application is allowed in terms of prayer clause (B).

(II) Applicants are allowed to withdraw 25% of the amount deposited in this Court upon their furnishing undertaking that in case decision in first appeal is adverse to the interest of the

applicants, they shall redeposit the amount within a period of four (4) weeks from the date of such order and rest of 25% of amount on furnishing solvent security and surety to the satisfaction of Registrar (Judicial) of this Court.

(III) Civil application is disposed of accordingly.

SSD

(R.G. AVACHAT, J.)

(SUNIL P. DESHMUKH, J.)