

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

CIVIL APPLICATION NO.15163 OF 2019 IN FA/3048/2017

GAUTAM NAGNATH JADHAV
VERSUS
M.I.D.C THR SUB-DIV. OFFICER, M.I.D.C DIV. OFFICE LATUR AND ORS

Advocate for Applicant : Mr. Pramod F. Patni
Advocate for Respondent No.1 : Mr. Shrirang S. Dande
AGP for Respondent No.2 - State : Mr. S. P. Deshmukh

CORAM : K.K. SONAWANE, J.

DATED : 06th JANUARY, 2020.

ORDER :-

Heard learned counsel for applicant-original claimant and learned counsel for respondent No.1 – Acquiring Body as well as learned AGP for respondent No.2 – the State of Maharashtra. Perused the application and other relevant documents produced on record.

2. Present application is filed by applicant-claimant seeking permission to withdraw the decretal amount deposited in this Court on behalf of respondent-Acquiring Body following impugned Judgment and Award passed by learned Reference Court in Land Acquisition Reference No. 238 of 2000, dated 01-03-2016.

3. Mr. Dande, learned counsel appearing for respondent No.1 – MIDC (Acquiring Body) raised objections that the learned Reference Court granted exorbitant compensation without taking any consideration the potentiality of the acquired land. He fairly conceded that the applicant-original claimant be permitted to withdraw the amount subject to furnishing the security.

4. Admittedly, pursuant to the order passed by this Court dated 17th March, 2017, the respondent-Acquiring Body deposited the decretal amount of Rs.2,07,461/- (Rs. Two Lakh Seven Thousand Four Hundred Sixty One Only) in this Court. In view of nature of the subject matter and the points of controversy, I do not find any impediment to allow the applicant to withdraw the amount on certain terms and conditions. It would sub-serve the purpose for substantial justice. Therefore, Civil Application deserves to be allowed.

5. Accordingly, the Civil Application stands allowed in terms of prayer clause 'B'. The decretal amount of Rs.2,07,461/- (Rs. Two Lakh Seven Thousand Four Hundred Sixty One Only) deposited in this Court is hereby allowed to be withdrawn by the applicant-original claimant subject to condition that he shall furnish undertaking to withdraw the amount Rs.1,07,461/- (Rs. One Lakh Seven Thousand Four Hundred Sixty One Only) to the effect that in case adverse situation, if any, arises after adjudication of the appeal on merit, the applicant-claimant will refund the same forthwith as per requisite order passed by this Court and rest of the amount i.e. Rs.1,00,000/- (Rs. One Lakh only) be allowed to be withdrawn by applicant-original claimant on furnishing solvent surety of like amount to the satisfaction of Registrar (Judicial) of this Court. The Registry to do the needful for disbursement of the amount in favour of applicant-original claimant as mentioned above. The Civil Application stands disposed of in above terms.

Sd./-
[K. K. SONAWANE]
JUDGE