

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

**965 CIVIL APPLICATION NO. 14717 OF 2019
IN FA/2609/2019**

SHAKUNTALA SADHU SHINDE AND ANR
VERSUS
EXECUTIVE ENGINEER, MINOR IRRIGATION DIVISION, OSMANABAD
AND ANR

...
Advocate for Applicants : Mr. Abhijit S. More
Advocate for Respondent No. 1 : Smt. Sunita Dashrath Shelke
AGP for Respondent No. 2 : Mr. S.P. Deshmukh

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CORAM : K.K. SONAWANE, J.

DATED : 15th JANUARY, 2020.

ORDER :-

1. Heard learned counsel for appearing parties.
2. Present application is filed by applicant-original claimants seeking permission for withdrawal of the decretal amount deposited by respondent - Acquiring Body. It has been contended that applicants preferred Reference Petition under Section 18 of the Land Acquisition Act, 1894 before the learned Reference Court bearing No. 630 of 2008. Learned Reference Court has allowed the Reference Petition filed by applicants-original claimants.
3. Being dissatisfied with Judgment and Award, respondent-Acquiring Body filed proceeding of Appeal No. 2609 of 2019 to redress its grievance. Pending the appeal, applicant/appellant-Acquiring Body deposited the entire decretal amount of Rs. 49,07,727/-. The applicants being original claimants moved the present application seeking permission for withdrawal of amount.
4. Learned counsel for respondent - Acquiring Body raised objection and submits that Reference Court granted exorbitant compensation amount for acquired land. There is hope of success in this appeal to the applicant/appellant- Acquiring Body. In case, the entire amount is allowed to be withdrawn by the applicants-original

claimants, it would cause injustice and prejudice to the appellant and it would create complication in execution of the award in the event of case appellant - Acquiring Body succeed in the appeal. Therefore, learned counsel for respondent - Acquiring Body submits that not to nod in favour of applicants-claimants.

5. Admittedly, the matter pertains to determination of compensation for land under acquisition of the claimants. It has been alleged that the Reference Court has appreciated the circumstances and granted meager amount of compensation. The Reference Court after appreciation of evidence on record passed the impugned Judgment and Award. In such circumstances, I do not find any impediment to allow the applicants-claimants to withdraw the compensation amount deposited in this Court. Definitely, it would sub-serve the purpose in the interest of justice. Therefore, application deserves to be partly allowed.

6. Accordingly, application stands partly allowed. The claimants are hereby permitted to withdraw 50% of the compensation amount deposited in this Court on furnishing undertaking to the effect that in case, appellant-Acquiring Body succeed in the matter, the applicants - claimants would refund the amount so withdrawn forthwith, as per order of this Court in the present proceedings. The applicants are further permitted to withdraw 25% from remaining balance amount on condition that they furnish the solvent surety of like amount to the satisfaction of the Registrar (Judicial) of this Court. Rest of the 25% amount out of compensation deposited in this Court be kept in Fixed Deposit Account in any Nationalized Bank for a period of two years or till disposal of this appeal, whichever is earlier. Registrar (Judicial) to do the needful for disbursement of the amount to the original claimants.

7. The Civil Application stands disposed of in above terms.

[K. K. SONAWANE]
JUDGE