

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

**CIVIL APPLICATION NO.1298 OF 2019
IN
FIRST APPEAL NO.620 OF 2007**

Chimna Nagu Wagh & Ors. .. Applicants

In the matter between

State of Maharashtra & Anr. .. Appellants

Vs.

Chimna Nagu Wagh & Ors. .. Respondents

Ms.Rukmini Khairnar i/by Mr.Pramod N. Joshi for the applicants.

Mr.A.R Patil, AGP for the appellants-State.

CORAM : R.D.DHANUKA, J.

DATE : 18th February 2020

P.C.:

. By this application, the applicants has prayed for withdrawal of the amount deposited by the appellant. First Appeal is already admitted.

2. The reasons for seeking withdrawal of the amount are recorded in paragraph 4 of the civil application and are accepted.

3. I therefore pass the following order :-

(i) The applicants (original claimants) are permitted to withdraw 50% of the amount deposited by the appellant with the District Court, Nashik in Land Reference Nos.293 of 1999 and 294 of 1999 at this stage, upon furnishing bank guarantee of a nationalised bank within eight weeks from

today. The said bank guarantee shall include interest @ 9% p.a. on the amount which shall be withdrawn by the applicants.

(ii) The said bank guarantee shall be kept alive for five years and thereafter for a like period after obtaining further orders from the Court depending upon the pendency of this appeal.

(iii) It is made clear that if the bank guarantee is not furnished within the time prescribed, the Reference Court shall invest the said amount in a fixed deposit of a nationalized bank initially for a period of five years and thereafter for like period depending upon the pendency of the First Appeal.

(iv) The applicants (original claimants) are permitted to withdraw 50% of the amount deposited by the appellant with the Reference Court, Nashik upon furnishing an undertaking before Reference Court within four weeks from today to the effect that if they do not succeed in this First Appeal, they would return the amount that would be withdrawn with interest at such rate as this Court may direct by subsequent order. Copy of the bank guarantee and the undertaking shall be served upon the learned advocate appearing for the appellant within one week from the date of filing such bank guarantee and undertaking. Amount would be withdrawn only after filing such bank guarantee and undertaking.

(v) It is made clear that if the undertaking is not furnished

within four weeks from today, the order passed by this Court allowing the applicants to withdraw 50% of the amount deposited by the appellant to stand vacated without further reference to the Court. In that event, the concerned Trial Court shall invest the said amount in a fixed deposit of a nationalized bank initially for a period of five years and thereafter for like period depending upon the pendency of the First Appeal.

4. Civil application is disposed of on aforesaid terms. No order as to costs. Parties as well as the concerned MACT to act on the authenticated copy of this order.

R.D.DHANUKA, J.