

11.01.2021.
Item No. 30

F.A.T. 46 of 2014
With
C.A.N. 3 of 2020

**The Executive Officer,
Burdwan Development Authority
Vs.
Abdul Aziz and another.**

**Mr. Prasanta Kumar Dutt,
Mr. Susanta Kumar Dutt,
Mr. S. Sinha Ray.**

... for the appellant.

**Mr. Gopal Chandra Ghosh,
Mr. Mukteswar Maity,
Mr. Partha Pratim Roy,
Mr. Prabir Rej.**

... for the respondent no. 1.

The appellant came up with the instant appeal against the award passed by the Land Acquisition Court deciding a dispute raised under Section 18 of the Land Acquisition Act.

At the time of passing an order of stay, a direction was passed upon the appellant to deposit the awarded sum with the Registrar General of this Court, who shall invest the said amount in an interest bearing fixed deposit in any nationalized bank. Subsequently, the respondent no. 1 was permitted to withdraw 25% of the deposited amount without furnishing security and 25% subject to furnishing the bank guarantee.

It is undisputed that in compliance to an order dated 1st September 2016, the respondent no. 1 has withdrawn 25% of such deposited amount without furnishing security and further 25% of such deposited amount upon furnishing a bank guarantee.

The remaining 50% of the deposited amount has been invested in a fixed deposit in any nationalized bank and nobody has disputed that the same has been renewed from time to time.

It is unequivocally stated before us that the parties have arrived at the amicable settlement out of Court and the appellant does not want to proceed with the instant appeal. It is submitted by the parties before us that in terms of the settlement further sum has been deposited before the executing court treating the entitlement of the respondent no. 1 over and above the amount determined by the Land Acquisition Court.

It is submitted on behalf of the respondent no. 1 that he may be permitted to withdraw the remaining deposited amount with accrued interest and the bank guarantee, which he furnished, must also be returned.

The aforesaid contention has not been disputed by the learned Advocate for the appellant. According to it, precisely such agreement has been arrived between the parties and, therefore, the Court may proceed to pass such order.

In view of the above, we permit the appellant to withdraw the instant appeal, which would be treated to be dismissed as such.

The respondent no. 1 is permitted to withdraw the remaining deposited amount from the Registrar General of this Court with accrued interest and if such application is made, endeavour shall be shown to dispose of the same within two weeks from such date.

The bank guarantee furnished by the respondent no. 1 shall be returned to him by the Registrar General of this Court nor the said bank

guarantee can be enforced by Registrar General under any circumstances.

In view of the dismissal of the appeal itself, the connected application being CAN 3 of 2020 has become infructuous and the same is also dismissed.

There shall, however, be no order as to costs.

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(Harish Tandon, J.)

(Kausik Chanda, J.)