

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CIVIL APPLICATION NO. 927 OF 2021
IN FIRST APPEAL NO.3062 OF 2019

Bhausahab S/o Pandhari Rautrao .. APPLICANT

VERSUS

The Executive Engineer
and others

.. RESPONDENTS

...
Mr.N.D. Kendre, Advocate for the applicant.
Mr.S.C. Arora, Advocate for respondent no.1.
Mr.A.A. Jagatkar, AGP for the respondent – State.

...
CORAM : V.L.ACHLIYA,J.
DATE : 18.01.2021

ORAL ORDER :

The applicant - claimant moved this application seeking withdrawal of balance amount to the extent of 50% deposited by the appellant-acquiring body.

2. In brief, it is the contention of learned counsel for the applicant that the marriage of daughter of the applicant is scheduled to be held on 15.02.2021. The applicant is in need of money to solemnize the marriage of his daughter. For the purpose of marriage, the amount of about Rs.15,00,000/- required to be spent.

3. Mr.Arora, learned counsel for the

appellants-acquiring body opposed the application with contention that there is no merit in the application. It is submitted that while passing the earlier order, this Court has allowed the withdrawal of amount to the extent of 50% in all the appeals arising out of the same acquisition. It is submitted that the appellants have good case to succeed in appeals. The enhancement of compensation is about 6 times the compensation assessed by the Special Land Acquisition Officer. The Special Land Acquisition Officer has assessed the compensation @ Rs.2720/- per R and the Reference Court has enhanced the same @ Rs.13,600/- per R. So also the interest awarded from the date of notification is also not sustainable in law in view of the decision of Full Bench in the case of ***State of Maharashtra Vs. Kailash Shiva Rangari*** reported in ***2016(3) Mh.L. J. 457***. In case, the amount is allowed to be withdrawn, it will be difficult to recover the same.

4. On due consideration of submissions advanced, I am of the view, no case is made out to entertain the application seeking withdrawal of balance amount of 50%. There is pandemic on account of Covid-19. There are

restrictions imposed as to gathering of the people. The claim made that Rs.15,00,000/- is to be spent on marriage is inflated claim. It is expected that the person should not unnecessarily spent money for the reasons assigned in the application.

5. In the facts and circumstances of the case and considering the need of the applicant, I am inclined to allow the applicant to withdraw the amount to the extent of Rs.1,00,000/-, on furnishing written undertaking to the effect that in the event the award is set aside or modified, the applicant shall redeposit the same within four weeks.

6. The application is disposed of in above terms.

7. It is clarified that the order passed in the instant application shall not provide basis for the applicants-claimants in other cases to make similar applications.

[V.L.ACHLIYA]
JUDGE