

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

**993 CIVIL APPLICATION NO.5540 OF 2017
IN FA/503/2017**

**BAPUSAHEB NIBRATTI SURYAWANSHI
VERSUS
MAHARASHTRA HOUSING AND AREA DEVELOPMENT
(MAHADA), THE ESTATE MANAGER AURANGABAD AND ANR**

Mr. V. G. Kodale, Advocate h/f Mr. V. D. Gunale, Advocate for the
applicant

Mr. Bhushan Virdhe, Advocate for respondent No.1

CORAM : N. J. JAMADAR, J.

DATE : 12-03-2021

P. C.

. Heard learned counsel for the parties.

2. This application is preferred to withdraw the amount of Rs.5,79,669/- deposited by respondent No.1-acquiring body pursuant to the order of the court dated 20-09-2017.

3. There are averments in the application in justification of the prayer for withdrawal.

4. Learned counsel for the respondent No.1 resisted the prayer on the ground that the Reference Court has granted very steep enhancement in the amount of compensation.

5. By an order dated 17-02-2017 the applicant was permitted to withdraw the entire amount of compensation deposited by the respondent No.1 on furnishing an undertaking. It subsequently transpired that the acquiring body had not deposited the entire amount of compensation. Pursuant to the application of the applicant, the acquiring body has deposited the balance amount of Rs.5,79,669/-.

6. Having regard to the aforesaid development and the fact that applicant was already allowed to withdraw the entire amount of compensation, on furnishing an undertaking to bring back the amount to protect the interest of respondent No.1, it would be expedient to allow the applicant to withdraw the amount. Hence, the following order.

ORDER

- i. The application stands allowed.
- ii. The applicant is permitted to withdraw the amount of Rs.5,79,669/- alongwith interest accrued thereon, on furnishing an undertaking to the satisfaction of the learned Registrar (Judicial) of this court to bring back the amount in the event it is held that the applicant is not entitled to the compensation.

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iii. The application stands disposed of.

[N. J. JAMADAR, J.]

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