

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

**CIVIL APPLICATION NO. 3776 OF 2021
IN
FIRST APPEAL NO. 3062 OF 2019**

Bhausahab Pandhari Rautrao ... Applicant
Versus
The Executive Engineer
Nimna Terna Kalva Vibhag No.2 and others ... Respondents

....
Mr. N. D. Kendre, Advocate for applicant
Mr. Shyam C. Arora, Advocate for respondent No.1
Mr. S. S. Dande, AGP for respondent Nos.2 and 3

....
CORAM : R. G. AVACHAT, J.
DATED : 01st DECEMBER, 2021

PER COURT :-

. Heard.

2. The applicant herein has already withdrawn a sum of Rs.8,00,000/-. After such withdrawal, an application was moved for further withdrawal of the amount as there being marriage in the family. On the ground of marriage in the family, the said application was partly allowed by this Court permitting further withdrawal of a sum of Rs.1,00,000/- only. The applicant herein, thereafter,

approached the Hon'ble Supreme Court. In S.L.P No.2511/2021, the Hon'ble Supreme Court, vide order dated 22.02.2021, passed the following order:-

“Having heard learned counsel for the parties, we enhance the withdrawal of amount to the extent of Rs.10,00,000/- (Rupees ten lac only) since the petitioner wants to perform the marriage of his daughter at this period.

The special leave petition is, accordingly, disposed of. However, it should not be treated as a precedent.

Pending applications, if any, stand disposed of accordingly.”

3. It is informed by the learned Advocate for the Acquiring Body that an application has been moved before the Apex Court for recall of the said order. The further status of the said application is however not known. Learned Advocate for the applicant suggested, if the said order is recalled, the applicant would pay back the amount.

4. Since the order passed by the Hon'ble Apex Court is to be complied with, the applicant is permitted to withdraw a sum of Rs.10,00,000/- (Rupees Ten Lakh) in deposit with this Court. There is, however, consensus between the learned Advocates that interest under Section 28 of the Land Acquisition Act, has been awarded in

breach of Full Bench Judgment of this Court in the case of ***State of Maharashtra v. Kailash Shiva Rangari – AIR 2016 BOMBAY 141.*** So, on withdrawal of this amount of Rs.10,00,000/-, the applicant would be receiving approximately a sum of Rs.3,00,000/- more. So to secure that much amount, the applicant is permitted to furnish bank guarantee in the sum of Rs.3,00,000/- with a condition to pay back the same with 5% interest p.a. from the date of receipt of the amount to the date of repayment, in case so directed by this Court in this appeal or otherwise.

5. The civil application is accordingly disposed of.

[R. G. AVACHAT, J.]

SMS