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

CIVIL APPLICATION NO.5958 OF 2020
IN
FIRST APPEAL (ST.) NO.9009 OF 2020

The Administrator CIDCO,
Aurangabad

..APPLICANT

VERSUS

Ashokkumar s/o Ramkishan Sikchi & ors.

..RESPONDENTS

Mr A. S. Bajaj, Advocate for applicant;
Mr P. K. Lakhotiya, Advocate for respondent Nos.1 to 4;
Mr S. B. Yawalkar, A.G.P. for respondent No.5

WITH
CIVIL APPLICATION NO.5960 OF 2020
IN
FIRST APPEAL (ST.) NO.9006 OF 2020

The Administrator CIDCO,
Aurangabad

..APPLICANT

VERSUS

Shriniwas s/o Gulabchand Sikchi
deceased thr. Lrs. & ors.

..RESPONDENTS

Mr A. S. Bajaj, Advocate for applicant;
Mr P. K. Lakhotiya, Advocate for respondent Nos.1A to 1C;
Mr S. B. Yawalkar, A.G.P. for respondent No.2

WITH
CIVIL APPLICATION NO.5632 OF 2021
IN
FIRST APPEAL (ST.) NO.9009 OF 2020

Ashokkumar s/o Ramkishan Sikchi & ors.

..APPLICANTS

VERSUS

The Administrator CIDCO,
Aurangabad & anr.

..RESPONDENTS

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Mr P. K. Lakhotiya, Advocate for applicants;
Mr A. S. Bajaj, Advocate for respondent No.1;
Mr S. B. Yawalkar, A.G.P. for respondent No.2

WITH
CIVIL APPLICATION NO.3159 OF 2021
IN
FIRST APPEAL (ST.) NO.9006 OF 2020

Shriniwas s/o Gulabchand Sikchi
deceased thr. Lrs. & ors.

..APPLICANTS

VERSUS

The Administrator CIDCO,
Aurangabad & anr.

..RESPONDENTS

Mr P. K. Lakhotiya, Advocate for applicants;
Mr A. S. Bajaj, Advocate for respondent No.1;
Mr S. B. Yawalkar, A.G.P. for respondent No.2

**CORAM : RAVINDRA V. GHUGE
AND
S. G. MEHARE, JJ.**

DATE : 30th June, 2021

PER COURT:

1. In the first two civil applications bearing Nos.5958/2020 and 5960/2020, this Court had heard the parties and had granted ad interim relief in terms of prayer clause (B) to the appellants on the condition that half of the amount of compensation granted by the competent authority and which is impugned in the first appeals, should be deposited in this Court.

2. In the third and the fourth civil applications bearing Nos.5632/2021

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and 3159/2021, the original claimants seek withdrawal of the said amount.

3. In Civil Application Nos.5632/2021 and 3159/2021, the original applicants pray that they may be permitted to withdraw the said amounts without conditions as their lands have been acquired in 2001 and they are still litigating for the land acquisition compensation. Having lost their lands, these applicants have lost their only source of earning and livelihood.

4. The learned Advocate for the appellants has strenuously opposed these two applications contending that the appellant have a bright chance of succeeding in the first appeals and the original claimants may not be entitled even to withdraw the 50% amount deposited by the appellants in this Court. If the original claimants are allowed to withdraw the said amounts and eventually they fail in the first appeals, it would be an enormous burden on the acquiring body/appellants, in recovering the said amounts from these claimants.

5. An order dated 15/10/2020, passed by this Court (Coram : Sunil P. Deshmukh and R. G. Avachat, JJ.) in Civil Application No.5288/2020 in First Appeal (ST.) No.8773/2020 in the matter of Shafiq Ahmed Hasan Khan & anr. Vs. The Administrator, Cidco & anr., is placed before us. There is no dispute that the appellants before us are the appellants in the

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said proceedings and the applicants in the said proceedings are similarly placed as like the appellants before us today.

6. Vide order dated 15/10/2020, this Court appreciated that the acquisition proceedings are of 2001 and the compensation amounts have been determined by considering the relevant factors. Only 50% of the awarded compensation was directed to be deposited in this Court. Considering the fact situation, this Court allowed the applicants to withdraw half of the deposited amounts on furnishing undertaking and the remaining amount was allowed to be withdrawn by furnishing solvent security to the satisfaction of the Registrar (Judicial) of this Court.

7. In view of the above, these two applications Nos.5632/2021 and 3159/2021 are partly allowed. These applicants are at liberty to withdraw half of the deposited amounts by tendering an undertaking stating therein that if they suffer an adverse order in the first appeals and are held disentitled to any portion of the amount withdrawn by them, they would deposit the excess amount in this Court within a period of eight weeks from the date of the decision, without interest. If they fail to deposit the amount within said period, the amounts would carry interest. The remaining 50% of the deposited amounts can be withdrawn by these applicants by tendering solvent security to the satisfaction of the learned Registrar (Judicial) of this Court. Needless to state that the amounts to be withdrawn would include interest that may have accrued in the last four

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months since deposit of the amounts.

8. Insofar as redepositing the withdrawn excess amounts in this Court in the event of an adverse order being passed against the claimants, Shri. Bajaj submits that the Hon'ble Apex Court has delivered orders directing such claimants to redeposit excess amounts with interest @ 15% p.a. for the period they have withdrawn and enjoyed the amounts. Whether the excess amounts withdrawn should be subjected to 15% interest p.a., would be an issue which will be decided by this Court while deciding the first appeals finally.

9. Considering the above and taking into account the arguable issues and grounds raised in both the first appeals and in view of the original claimants having been allowed to withdraw the 50% deposited amounts, we confirm the ad interim relief granted by this Court vide order dated 24/09/2020. Accordingly, Civil Application Nos.5958/2020 and 5960/2020 are allowed.

(S. G. MEHARE, J.)

(RAVINDRA V. GHUGE, J.)

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