

CIVIL APPLICATION NO.4627 OF 2020
IN
FIRST APPEAL NO.3569 OF 2019

Laxman s/o Aba Gaikwad,
Died, through his L.Rs.
Gangadhar s/o Laxman Gaikwad & ors. ...APPLICANTS

VERSUS

The Administrator,
City & Industrial Development Corporation
of Maharashtra (CIDCO),
Aurangabad & ors. ...RESPONDENTS

Mr Gopal D. Kale, Advocate for the applicants;
Mr A.S. Bajaj, Advocate for respondent no.1;
Mrs V.S. Choudhari, A.G.P. for respondent no.2;
Mr M.G. Mustafa, Advocate for respondent nos.4-2 (i) to 4-2-4 & 4-1

**CORAM : UJJAL BHUYAN
AND
M.G. SEWLIKAR, JJ.**

DATE : 19-03-2021

PER COURT :

Heard learned Counsel for the parties.

2. This Civil Application has been filed by the applicants for leave to withdraw their respective shares from the awarded compensation in terms of judgment and award dated 20-06-2018, passed by the learned Joint Civil Judge, Senior Division, Aurangabad, in L.A.R. No.677 of 1997.

3. Be it stated that by the said judgment and award, learned Reference Court passed the following order :-

- "1) Petition is partly allowed.*
- 2) Petitioners are entitled for enhanced compensation at the rate of Rs.7200/- per R for all the acquired land as per their respective shares declared in award.*
- 3) Respondents shall pay to the petitioners an amount at the rate of 12% per annum on the enhanced compensation as per section 23 (1) (A) of the Act.*
- 4) Respondents shall pay to petitioners an amount of 30% solatium on the enhanced compensation as per the section 23 (2) of the Act.*
- 5) Respondents shall pay to petitioners an interest on the enhanced compensation as per section 28 and 34 of the Act.*
- 6) Deficit court fees, if any, be recovered from petitioners.*
- 7) Award be drawn up accordingly."*

4. This judgment and award has been assailed in the related First Appeal by the Administrator, City and Industrial Development Corporation of Maharashtra (CIDCO). At the time of

admission of the appeal, appellant had deposited an amount of Rs.3,62,87,337.00 in the Registry of this Court which as per the appellant is the quantum of compensation awarded.

5. This Civil Application has been filed by some of the claimants and their legal heirs for withdrawal of the aforesaid amount deposited in the Registry of this Court as per their share.

6. Learned Counsel for the appellant submits that appellant is in fact entitled to 25% of the awarded compensation. On the other hand, Mr Mustafa, learned Counsel submits that there is some *inter se* dispute between the claimants on the question of apportionment of the awarded compensation.

7. After hearing learned Counsel for the parties and on due consideration, we direct that 25% of the deposited amount of Rs.3,62,87,337.00 be retained in the Registry as of now. Out of the remaining amount, 50% be allowed to be withdrawn by the individual claimants or their legal representatives as per their shares on following terms :-

a) 25% be paid on furnishing personal undertakings;

- b) 25% be released on furnishing solvent surety;
 - c) Remaining amount including 25% retained in the Registry be invested by the Registry in fixed deposit of any nationalized bank initially for a period of three years, to be renewed thereafter from time to time.
8. Civil Application is disposed of in above terms.

(M.G. SEWLIKAR)
JUDGE

(UJJAL BHUYAN)
JUDGE

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