

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

1048 WRIT PETITION NO.9386 OF 2021

KASHIBAI APPARAO PATIL DIED
THROUGH LRS JEEVAN PANDITRAO PATIL
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

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Advocate for Petitioner:
Mr. Patil N. P. Jamalpurkar
AGP for Respondents No. 1 to 3: Mr. A. R. Kale
Respondent No. 4 - served

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**CORAM: S. V. GANGAPURWALA &
R. N. LADDHA, JJ.**

DATE: 07th OCTOBER, 2021

PER COURT:

1. Heard learned Advocate for the petitioner.
2. Respondent no. 4 though served is absent.
3. The award is passed U/Sec. 28-A of the Land Acquisition Act, 1894. The petitioner had moved for withdrawal. The Sub-Divisional Officer imposed the condition upon the petitioner to submit the Bank Guarantee of a Nationalised Bank. The said condition is assailed in the present writ petition.

4. According to Mr. Jamalapurkar, learned Advocate for the petitioner in the appeal filed against the order of the Reference Court this Court has allowed withdrawal of 50% amount on undertaking, 25% on solvent security and 25% on Bank Guarantee.

5. The learned A.G.P. submits that the appeal is pending. If the appeal of the State is allowed then it would be difficult to recover the amount from the petitioner.

6. In the appeal filed by the State and / or by the acquiring body the claimants are allowed to withdraw the amount upon certain conditions. It would be appropriate to impose the same conditions on the petitioner for withdrawing the amount.

7. The impugned order directing the petitioner to submit Bank Guarantee for the entire amount is quashed and set aside. Instead, we pass the following order-

ORDER

. The petitioner will be entitled for withdrawal of the amount as per the award passed U/Sec. 28-A of the Land Acquisition Act, 1894 on following conditions-

A] 50% of the amount is allowed to be withdrawn by furnishing an undertaking that in the event the appeal filed by the acquiring body is allowed and the petitioner is required to re-deposit the amount the petitioner would re-deposit the amount within three (03) months.

B] The petitioner is allowed to withdraw 25% of the amount on furnishing solvent security of the like amount, and

C] The remaining 25% amount is allowed to be withdrawn on furnishing the Bank Guarantee of any Scheduled or Nationalised Bank.

8. Writ Petition accordingly stands disposed of.
No costs.

[R. N. LADDHA, J.]

[S. V. GANGAPURWALA, J.]

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