

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

926 CIVIL APPLICATION NO.114 OF 2021
IN FA/881/2020

SARJERAO SAKHARAM MADAN
VERSUS
G.M.I.D.C., AURANGABAD THR THE EX. ENGINEER, MINOR
IRRIGATION DIVISION, JALNA AND ORS

...
Advocate for Applicant : Mr. Humbe Vilas M.
Mr. S.U.Shaikh, Adv. h/for Mr. RD Biradar, Adv. For
Resp.No.1;
Mr. BV Virdhe, AGP for Respondents: 2 & 3

CORAM : SMT.VIBHA KANKANWADI, J.
DATE : 24th June, 2021.

PER COURT :-

1. Heard both sides.
2. Though by this application, the applicant has prayed for quashing and setting aside the order passed below Exhibit-9 by learned CJSD, Jalna in Special Darkhast No.156/2019 on 12.10.2020, it is to be noted that in view of the order passed by this Court, it appears that the amount has been deposited after the stipulated period by the acquiring body in the Executing Court. The amount that has been deposited is to the tune of Rs. 7,72,635/-. The present applicant could have directly asked for withdrawal of the amount by filing an application in this Court. However, it appears that he made such application before the learned CJSD and further in view of the fact that the appeal is pending in this Court, the learned

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Judge might be justified in rejecting that application and in a way indicating that the applicant should approach this Court where the appeal is pending. Technically, there was no stay or whatever stay was there, it was conditional one and had come to an end before the amount was deposited. Therefore, without going into much details, taking into consideration that the enhancement appears to be within four times and therefore, substantial part of the amount can be allowed to be withdrawn till the appeal is decided. Therefore, this application is disposed of with a direction that the applicant is allowed to withdraw an amount of Rs.5,50,000/- upon giving an undertaking before the learned Executing Court within a period of four weeks from now. The learned Executing Court to allow the applicant to withdraw, after taking such undertaking. The undertaking should indicate that in case the acquiring body succeeds in the appeal, then the applicant would make good the amount that has been allowed to be withdrawn.

3. The Civil Application stands disposed of accordingly.

(SMT. VIBHA KANKANWADI)
JUDGE

BDV