

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

**CIVIL APPLICATION NO.11873 OF 2021
IN
FA/2732/2018**

**DHONDUBAI KERBA BEMBADE
VERSUS
THE EXECUTIVE ENGINEER, LOWER MEDIUM PROJECT
DIVISION, LATUR THE GMIDC AURANGABAD AND OTHERS**

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Mr. Ameya N. Sabnis, Advocate for the Applicant.
Mr. S.G. Bhalerao, Advocate for Respondent No.1 (absent)
Mr. V.G. Sakolkar and Mr. H.B. Nandagavale, Advocates for
Respondent Nos. 2 and 3 (absent)
Mr. S.B. Madde, Advocate for Respondent Nos. 4 and 5 (absent)
Mr. P.M. Kulkarni, AGP for Respondent No.7 / State

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CORAM : SHRIKANT D. KULKARNI, J.

DATE : 17th NOVEMBER, 2021

PER COURT:-

1. It is an application for withdrawal of amount moved by the applicant.
2. Heard Mr. A.N. Sabnis, learned counsel for the applicant and Mr. P.M. Kulkarni, learned AGP for the State / Respondent no.7. Mr. S.G. Bhalerao, learned counsel for acquiring body /

Respondent no.1, Mr. V.G. Sakolkar and Mr. H.B. Nandagavale, learned counsel appearing for respondent nos. 2 and 3 and Mr. S.B. Madde, learned counsel for respondent nos. 4 and 5 are absent when matter is called out.

3. Mr. Sabnis, learned counsel for the applicant invited attention of this Court to the copy of the order passed by this Court in first appeal no.2732/2018 and pointed out that the first appeal has been disposed of under order dated 09.08.2021. He further invited attention to the said order, more particularly para 12 and pointed out that 50% of the amount of compensation pertaining to the share of this applicant was kept in the fixed deposit. Mr. Subnis submitted that the suit between the parties came to be disposed of and decision is rendered in favour of present applicant. As such, the applicant is entitled to get the amount. He further submitted that he has communicated Mr. Bhalerao, learned counsel appearing for the acquiring body on the phone, and in turn, Mr. Bhalerao, learned counsel for the acquiring body informed him that now the acquiring body has no interest.

4. Mr. P.M. Kulkarni, learned AGP for State / respondent no.7 submitted that appropriate order may be passed in view of disposal of the first appeal.

5. Upon perusing the copy of the order passed in first appeal No.2732/2018, more particularly para 9, it would be clear that the present applicant Dhondubai Kerba Bembade is declared to have $\frac{1}{2}$ share in the acquired land.

6. In view of the disposal of the first appeal no. 2732/2018 dated 09.08.2021, there is no propriety to continue the fixed deposit. The applicant is entitled to get her 50% share with accrued interest thereon. Hence, the following order:-

O R D E R

(i) Civil application is hereby allowed in terms of prayer clause 7(A).

(ii) The civil application stands disposed of accordingly.

[SHRIKANT D. KULKARNI]
JUDGE