

IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
BENCH AT AURANGABAD.

921 WRIT PETITION NO.13172 OF 2021

- 1) Sanyogita Dhananjay Kale,
2) Ajay S/o Raghunath Dandwate. **... Petitioners**

Versus

The State of Maharashtra and others. **... Respondents**

...
Mr. A. V. Sakolkar, h/f Mr. Vijay G. Sakolkar, Advocate for Petitioners.
Mr. K. N. Lokhande, AGP for Respondent/State.
...

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

DATE : 01st December, 2021.

PER COURT:

. The learned counsel submits that the petitioners had filed application under Section 28-A of the Land Acquisition Act pursuant to the order passed in reference under Section 18 of the Land Acquisition Act filed by other persons of the same award. The Land Acquisition Officer allowed the said application under Section 28-A of the Land Acquisition Act. The petitioners applied for withdrawal of the amount. The authority allowed the petitioners to withdraw the amount but on submitting bank guarantee of the nationalized bank. The learned counsel submits that the said order is passed on the premise that the

order passed under Section 18 of the Land Acquisition Act by the Reference Court pursuant to which the petitioners had filed application under Section 28-A of the Land Acquisition Act, is *sub-judice* in appeal before this Court. The learned counsel submits that the learned Single Judge of this Court allowed the claimants in the first appeal withdrawal of 75% of the amount and out of the 75% of the amount, 50% amount is directed to be withdrawn on submitting an undertaking and 25% of the amount is allowed to be withdrawn on furnishing bank guarantee / solvent security of the like amount.

2 Considering the aforesaid facts, we modify the impugned order passed by the Land Acquisition Officer (page 41) and pass the following order :

ORDER

- I. The petitioner No.1 is allowed to withdraw the total amount of Rs.38,00,000/- from an amount of Rs.51,58,384/- granted by the Sub-Divisional Officer / Land Acquisition Officer. Out of the amount of Rs.38,00,000/-, an amount of Rs.25,00,000/- is allowed to be withdrawn on submitting an undertaking before the Sub-Divisional Officer that in case the appeal filed by the State / Acquiring Body against the judgment in the Reference bearing No.519 of 2010 is allowed by this Court, then petitioner No.1 would deposit the said amount within one month. The remaining

amount of Rs.13,00,000/- is allowed to be withdrawn by petitioner No.1 on submitting bank guarantee of the like amount.

- II. The petitioner No.2 is allowed to withdraw the total amount of Rs.57,00,000/- from an amount of Rs.76,02,413/- granted by the Sub-Divisional Officer / Land Acquisition Officer. Out of the amount of Rs.57,00,000/-, an amount of Rs.38,00,000/- is allowed to be withdrawn on submitting an undertaking before the Sub-Divisional Officer that in case the appeal filed by the State / Acquiring Body against the judgment in the Reference bearing No.519 of 2010 is allowed by this Court, then petitioner No.2 would deposit the said amount within one month. The remaining amount of Rs.19,00,000/- is allowed to be withdrawn by petitioner No.2 on submitting bank guarantee of the like amount.

- III. The writ petition is disposed of. No costs.

[R. N. LADDHA, J.]

[S. V. GANGAPURWALA, J.]

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