

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

914 CIVIL APPLICATION NO.13855/2021
IN FA/32/2020

BIRU BAPU MANE
VERSUS
THE EX. ENGINEER, MINOR IRRIGATION DIV, OSMANABAD AND ORS

Mr N.J. Patil, Advocate for applicant
Mr S.V. Kurundkar, Advocate for respondent no.1
Mr B.V. Virdhe, A.G.P. for respondents no.2 and 3

CORAM : SHRIKANT D. KULKARNI, J.

DATE : 21st DECEMBER, 2021

PER COURT :

1. It is an application for withdrawal of amount moved by the applicant through her power of attorney.
2. Heard Mr N.L. Patil, learned Advocate for applicant, Mr S.V. Kurundkar, learned Advocate for respondent no.1 and Mr B.V. Virdhe, learned A.G.P. for respondents no.2 and 3.
3. Mr Patil, learned Advocate for applicant seeks leave to place on record copy of order passed by this Court (Coram : R.G. Avachat, J) dated 20.8.2021 in Civil Application No.8266 of 2021 in First Appeal Stamp No.15763 of 2019 arising out of same project and he submits that applicant may be allowed to withdraw the entire amount deposited by the acquiring body.
4. Mr S.V. Kurundkar, learned Advocate for respondent no.1/acquiring body and Mr B.V. Virdhe, learned A.G.P. for respondents no.2 and 3 strongly opposed to permit the applicant to withdraw the entire amount.
5. On going through the record, it is revealed that this Court was pleased to grant stay to the operation and execution of the impugned award passed by the reference Court in L.A.R.Nos.910 of 2011 and 911 of 2011 on condition to deposit

50% of the amount under the impugned award. It is submitted across the Bar that the acquiring body/GMIDC has deposited 50% of the amount under the impugned award.

6. On going through the copy of order relied upon by Mr Patil, it is noticed that this Court (Coram : R.G. Avachat, J) dated 20.8.2021 in Civil Application No.8266 of 2021 in First Appeal Stamp No.15763 of 2019 was pleased to allow the claimant to withdraw 75% of the amount deposited, 50% on furnishing undertaking with the Registrar (Judicial) of this Court and 25% amount on furnishing solvent surety/security in the like amount and balance 25% amount was directed to be invested in fixed deposit in any nationalised Bank for the period till disposal of the appeal.

7. In the present matter, as pointed out earlier, the acquiring body has deposited 50% of the amount under the award under challenge. As such, the applicant is entitled to withdraw the entire amount deposited by the acquiring body in this Court, however, subject to furnishing undertaking as per the practice of this Court.

ORDER

- (i) The Civil Application is hereby allowed on condition that the applicant shall furnish usual undertaking with the Registrar (Judicial) of this Court.
- (ii) The application is accordingly disposed of.

(SHRIKANT D. KULKARNI, J.)

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