

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

**INTERIM APPLICATION NO. 757/2021
IN
REVIEW PETITION (ST.) NO.31588/2019
IN
CIVIL WRIT PETITION NO. 13477 OF 2017**

Kishori Prakash Awade & Ors. .. Applicants
vs.
The State of Maharashtra & Ors. .. Respondents

.....
Mr. Prashant Bhavake for the Applicants.
Mr. Sachin Gite for Review Petitioners.
Mr. A.I. Patel Addl.GP with Mrs S. S. Bhende, AGP for the State.

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**CORAM: K.K.TATED, &
RIYAZ I. CHAGLA, JJ.**

DATED : MARCH 18, 2021

P.C.

. Heard.

2. By this Interim Application, the Applicants -Original Claimants are seeking permission to withdraw amount deposited by the review petitioner as per order passed by this Court in WP No. 13477/2017.

3. The learned counsel for the Applicants submits that this Court by order dated 31/01/2019 in WP No. 13477/2017 directed the Special Land Acquisition Officer to calculate amount due and payable by the Petitioners acquiring body to the Claimant by way of the rental compensation as the possession of the acquired land was taken before notification under Section 4 of the Land Acquisition Act. 1894.

4. The learned counsel for the Applicant submits that as per order passed by this Court, the Special Land Acquisition Officer calculated amount due and payable by the Petitioners by order dated 05/09/2019 which come to Rs. 62,29,328/- in respect of Gat No. 501.

5. The learned counsel for the Applicant submits that the Petitioner specifically made a statement before this Court that, they have no objection if the Applicant withdraws amount from the date of taking possession of the land till the date of issuance of notification under Section 4 of the Land Acquisition Act, 1894. He submits that in view of these facts, the Applicant has filed the present application with prayer clause (b).

“b] By a suitable Writ, Order or direction and without prejudice to rights and contentions of the Petitioner regarding their entitlement of entire amount of rental compensation as calculated by Respondent No.3 vide order dated 5-9-2019 for the period w.e.f. the date of taking physical possession till the date of payment of entire amount of compensation as awarded vide land acquisition award of their land, this Hon’ble Court be pleased to direct the Respondent No.3 to release the amount calculated vide order dated 5-9-2019 for the period w.e.f. the date of taking physical possession till the date of issuance of Notification under Section 4 of the Land Acquisition Act, 1894 by deducting amount which is paid as per directions of this Hon’ble Court vide order dated 13-2-2020 passed in aforesaid Review Petition;”

6. The learned counsel for the Applicant submits that

the Applicant may be permitted to withdraw the amount as per the calculation made by the Special Land Acquisition Officer by order dated 05/09/2019.

7. The learned counsel for the Review Petitioner vehemently opposed the present application. He submits that in fact, the order dated 05/09/2019 passed by the Special Land Acquisition Officer is already withdrawn by them by order dated 04/01/2020. He submits that as per order dated 04/01/2020, the Land Acquisition Officer calculated the entire amount due and payable from the date of taking possession of the land till the date of issuance of notification under Section 4 of the Land Acquisition Act. Therefore, there is no question of allowing the Applicant to withdraw the amount as per order passed by the Special Land Acquisition Officer dated 05/09/2019.

8. When this Court declined to entertain the present application, at this stage, the learned counsel for the Applicant submits that the Applicant may be permitted to withdraw the present application with liberty to file appropriate proceedings as per law. To that effect, he has given in writing. The same is taken on record and marked 'X' for identification. The same is accepted.

9. Interim Application No. 757/2021 stands disposed as withdrawn with liberty as prayed.

10. No order as to costs.

(RIYAZ I. CHAGLA, J.)

(K.K.TATED, J.)