

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

CIVIL APPLICATION NO.1087 OF 2019

IN

FIRST APPEAL [STAMP] NO.12641 OF 2018

Malan N. Kamble (Tondale) & Ors.]...Applicants.

IN THE MATTER BETWEEN:

Namdev T. Patil & Anr.] Appellants.

Vs.

Malan N. Kamble (Tondale) & Ors.]...Respondents.

....

Mr.Bhavesht Magam h/f Kedar Lad, for appellant.

Mr.Jayant Bardeskar, for respondent nos.1 to 3.

CORAM : PRITHVIRAJ K. CHAVAN, J.

DATE : 3RD MARCH, 2021.

P.C. :

1. This is an application seeking withdrawal of an amount of compensation, deposited by the respondents in M.A.C.T., Kolhapur.

2. Earlier on 26th September 2018, this Court (Coram: Dr.Shalini Phansalkar, J.) directed the respondents to deposit 1/4th of the amount of compensation out of total amount of award of Rs.10 lakhs, within 4 weeks from that order. It is submitted that 1/4th amount i.e. Rs.2,50,000/- has already been deposited. However, this Court had granted stay to execution of the award only upto appearance of

respondents i.e. the present applicants in the matter.

3. Mr.Bhavesesh Magam, the learned Counsel holding for Mr. Kedar Lad, for the appellant submits that the applicants be permitted to withdraw the amount deposited by the respondents. For the reasons stated in paragraph 4 of the application, the applicants are permitted to withdraw the amount.

4. At the time of withdrawal, the applicants shall give an Undertaking that in case the appeal succeeds they will refund the amount, subject to decision of the appeal.

5. Parties are at liberty to negotiate as regards amicable settlement.

6. Application stands disposed of.

7. In the meanwhile, respondents are directed to deposit 25% of the amount of compensation within 4 weeks failing which, the claimants are at liberty to proceed further in accordance with law.

8. If the amount is deposited within 4 weeks as above, there shall be stay to the execution of the award.

9. Liberty to mention.

(PRITHVIRAJ K.CHAVAN,J.)