

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

**INTERIM APPLICATION NO. 189 OF 2021
IN
FIRST APPEAL (ST) NO.16826 OF 2019**

Kai. Vitthal Govind Patil (Deceased)
through his LRs.

1) Smt. Devkibai Vitthal Patil ..Applicants

In the matter between

The State of Maharashtra through
the Dy. Collector (Land Acquisition) ..Appellant
Vs.

Kai. Vitthal Govind Patil (Deceased)
through his LRs.

1) Smt. Devkibai Vitthal Patil ..Respondent

Mr. Hemant Ghadigaonkar for the Applicant Nos.1 to 5 and 7 to 9.
Mr. N. B. Patil, AGP for the Respondent.

CORAM : C.V. BHADANG, J.

DATE : 19th MARCH 2021

PC.

. This is an application for modification of the order dated 23/11/2020 passed by this Bench in Interim Application No.3238/2020 (I.A. No.01/2020) in First Appeal (ST) No.16826/2019. This application is placed before this Bench in

view of the order dated 29/1/2021 passed by this Court (Coram : P. K. Chavan, J.).

2. I have heard the learned counsel for the applicant and the learned AGP for the respondent / State. Perused record.

3. The learned counsel for the applicant has placed reliance on certain orders passed in First Appeals arising out of land acquisition proceedings in order to submit that a similar order permitting withdrawal of 100% of the compensation may be allowed. Reliance is also placed on the order passed by the Hon'ble Supreme Court on 1/8/2016 in Civil Appeal No.7193/2016 in which the Supreme Court has directed the Reference Court to release 50% of the amount deposited by the State without security and the remaining 50% with security to the satisfaction of the Reference Court. The Supreme Court has further observed that the High Court may adopt the same pattern in all the 'connected cases'.

4. It is undisputed that the present appeal is not connected with the batch of the appeals out of which the aforesaid order dated 1/8/2016 is passed.

5. The learned counsel for the applicant submitted that in so far as the furnishing of the Bank guarantee to the extent 25% of the compensation is concerned, the applicant is facing difficulty in securing the Bank guarantee.

6. Upon hearing the learned counsel for the parties, in my considered view, partial modification of the order can be granted directing release of the 25% of the compensation upon the applicant furnishing security to the satisfaction of the Reference Court instead of a Bank guarantee. The order will stand modified to that extent. The rest of the order permitting withdrawal of 25% of the compensation, without any security stands as it is. The civil application is disposed of.

C.V. BHADANG, J.