

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

CIVIL APPLICATION NO. 1292 OF 2021 IN
CIVIL APPLICATION NO. 6346 OF 2013 IN
FIRST APPEAL NO. 2104 OF 2013

Mohit Madhusudan Bharuka & another Applicants

Versus

State of Maharashtra & others Respondents

Mr. A. S. Bajaj, Advocate for the applicants.
Mr. A. M. Phule, AGP for respondent No. 1- State.
Ms. P. A. Patil, Advocate holding for Mr. U. K. Patil, Advocate for
respondent No. 2.

**CORAM : R. G. AVACHAT &
R. M. JOSHI, JJ.**
DATE : 18th NOVEMBER, 2022.

PER COURT :

1. By order dated 8th May, 2014, applicant/original appellant was directed to deposit 50% amount in two instalments i.e. first instalment of 25% by end of June 2014 and remaining 25% by end of September 2014. The amount deposited in the first instalment was permitted to be withdrawn by order dated 8th August, 2014. By this application, the applicants are seeking withdrawal of remaining 25% amount deposited by respondent No. 2 by way of second instalment.

2. Heard learned advocates for both the parties. Learned advocate for applicants submitted that only 50% amount arising of judgment of reference Court is deposited and hence withdrawal may be allowed. He also contended that applicants are financially severely affected by pandemic.

3. Learned advocate for respondent No. 2 opposed the application. It is contended that impugned order is passed by the Reference Court without cogent evidence on record and without proper reasons. According to her, the award has been passed relying upon the private valuer and error is committed in increasing number of fruit bearing trees.

4. It is to be noted that 50% amount of the total amount of award was directed to be deposited by this Court. Thus, interest of the appellant is already being protected. Out of the said amount, 75% amount has been withdrawn by the applicants herein as per order dated 8th August, 2014. The reasons for withdrawal of amount as mentioned in application are satisfactory. Even otherwise, the total amount that would be withdrawn by the applicants will be 50% of the amount only. Thus, there is no justification for refusing

withdrawal of the remaining 25% amount. Hence, applicants are permitted on furnishing solvent security in the like amount to withdraw balance amount with interest accrued thereon.

5. In the above terms, civil application stands disposed of.

(R. M. JOSHI)
Judge

(R. G. AVACHAT)
Judge

dyb