

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

926 CIVIL APPLICATION NO.2006 OF 2022
IN FA/1909/2019

SHIVAPPA NAGAPPA LADE (DEAD) THR LRS SANJAY AND ORS
VERSUS
THE STATE OF MAHARASHTRA THR THE COLLECTOR, OSMANABAD AND
ORS

Mr G.K. Sontakke, Advocate for applicants
Mr P.M. Kulkarni, A.G.P. for respondents no.1 and 2
Mr A.M. Gaikwad, Advocate for respondent no.3

CORAM : SHRIKANT D. KULKARNI, J.

DATE : 17th March, 2022

PER COURT :

1. It is an application for withdrawal of compensation amount moved by the original claimants.
2. Heard learned Counsel and learned A.G.P. for respective parties.
3. Mr Sontakke, learned Counsel for applicants invited my attention to the order dated 6.12.2021 passed by the Honourable Supreme Court in Civil Appeal arising from SLP (C) Nos.17284-17287 of 2021 with Dairy No.23580 of 2021 in Special Leave Petition (Civil) No.20198 of 2021 and other connected matters. He pointed out that the Honourable Supreme Court in connected matters arising out of same group allowed the applicants to withdraw 100% amount of compensation, i.e. 50% without furnishing security and 50% on furnishing surety to the satisfaction of reference Court.
4. Mr P.M. Kulkarni, learned A.G.P. for respondents no.1 and 2 and Mr A.M. Gaikwad learned Advocate for respondent no.3 submitted that this Court, vide order dated 6.9.2019 passed in Civil Application No.7291 of 2019 in F.A.No.1909 of 2019 was pleased to allow the claimants to withdraw 50% of the amount of compensation. If this second application is allowed, it may amount to modify the earlier order. Mr P.M. Kulkarni argued on same line. Mr G.K. Sontakke, learned

Counsel for applicants submitted that in view of order passed by the Honourable Supreme Court arising out of same group and same project, the claimants may be allowed to withdraw 100% amount of compensation.

5. There is no dispute that original claimants have already withdrawn 50% amount of compensation in view of order passed by this Court dated 6.9.2019 in Civil Application No.7291 of 2019 in F.A.No.1909 of 2019. The question is about remaining balance amount of compensation. On perusal of the order dated 6.12.2021 passed by Honourable Supreme Court in Civil Appeal of 2021 arising from SLP (C) Nos.17284-17287 of 2021 in case of Manisha Shirish Kande etc. Vs. State of Maharashtra and ors., the Honourable Supreme Court was pleased to allow the original claimants to withdraw 100% amount of compensation and out of that 50% without security and 50% on furnishing security to the satisfaction of the reference Court. It is not in dispute that this matter is arising out of same notification. As such, it is necessary to allow the original claimants to withdraw remaining 50% balance amount of compensation by placing reliance on the order passed by Honourable Supreme Court dated 6.12.2021.

ORDER

The Civil Application is hereby allowed as under :

- (i) The applicants/original claimants are permitted to withdraw remaining 50% balance amount of compensation with accrued interest thereon on furnishing solvent security/surety to the satisfaction of Registrar (Judicial) of this Court.
- (ii) The Civil Application is accordingly disposed of.

(SHRIKANT D. KULKARNI, J.)