

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

928 CIVIL APPLICATION NO.2043 OF 2022
IN FA/2630/2019

HARIBHAU SAMBHA SAROLE

VERSUS

THE EX. ENGINEER, MINOR IRRIGATION DIV.
LATUR AND ORS

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Advocate for Applicant : Ms L.R. Thakur h/f Mr L.C. Patil
AGP for Respondent Nos. 2 and 3/State : Mr A.B. Chate
Advocate for Respondent No. 1 : Mr R.C. Patil

WITH CA/2045/2022 IN FA/2639/2019
WITH CA/2046/2022 IN FA/2629/2019
WITH CA/2041/2022 IN FA/2635/2019
WITH CA/2042/2022 IN FA/2634/2019
WITH CA/2044/2022 IN FA/2626/2019

CORAM : SHRIKANT D. KULKARNI, J.
DATE : 22nd APRIL, 2022

PER COURT :

1. These are the applications for withdrawal of compensation moved by the respective claimants by taking aid of order passed by the Hon'ble Supreme Court in Special Leave to Appeal (C) Nos. 17137-17143/2021 dated 8th November, 2021.
2. Heard Ms L.R. Thakur holding for Mr L.C. Patil, learned counsel for the applicants/claimants and Mr R.C. Patil, learned counsel for the acquiring body and Mr A.B. Chate, learned AGP for the State.
3. Ms L.R. Thakur, learned counsel for the claimants seeks leave to place on record copy of the order passed by this Court dated 22.03.2022 in Civil Application No. 2961/2022 in First Appeal No. 123/2020 with connected matters. Leave granted.

4. The copy of order dated 22.03.2022 is taken on record and marked as 'X' for identification.

5. Ms L.R. Thakur, learned counsel for the claimants submitted that this Court was pleased to allow the claimants to withdraw remaining 60% balance amount of compensation on furnishing solvent surety/security to the satisfaction of the Registrar (Judicial) of this Court in view of the directions given by the Hon'ble Supreme Court in Special Leave to Appeal No Appeal (C) Nos. 17137-17143/2021 dated 8th November, 2021. She, therefore, urged to allow the claimants to withdraw 60% remaining balance amount of compensation.

6. Mr R.C. Patil, learned counsel for the acquiring body and Mr A.B. Chate, learned AGP have strongly opposed to allow these applications to withdraw remaining 60% balance amount of compensation. Mr R.C. Patil invited my attention to the order passed by the Hon'ble Supreme Court referred above as well as the order dated 12th July, 2021. He submitted that in the above referred matters, the Hon'ble Supreme Court has specifically observed and permitted to the respective petitioners to approach the High Court by way of appropriate applications for modification of the order as and when such applications are made to the High Court to consider similar orders passed by the Supreme Court. He submitted that no such permission has been accorded in these appeals. As such, the above referred order passed by the Hon'ble Supreme Court cannot be taken into aid to allow the applicants to withdraw remaining 60% balance amount .

7. I have considered the submissions of learned counsel for the applicants/claimants, the learned counsel for the acquiring body and the learned AGP for the State. Further, I have gone through the impugned order

passed by the Hon'ble Supreme Court referred above as well as the order passed by this Court dated 22.03.2022.

8. The copy of order is taken on record and marked 'X' for identification.

9. On careful study of the order passed by the Hon'ble Supreme Court, the following directions issued are important which would help to decide these applications.

We dispose of the present Special Leave Petitions by relegating/permitting the petitioners to approach the High Court by way of appropriate applications for modification of the impugned order by pointing out the orders by this Court and as and when such applications are made, the High Court is directed to consider the similar orders passed by this Court which have been relied upon by the learned counsel appearing on behalf of the petitioners and the High Court to modify the impugned order after giving opportunity to the acquiring body.

10. It is an admitted position that this group of appeals and applications for withdrawal of compensation amount are arising out of same group. The lands involved in this group of applications are arising out same project in view of the directions given by the Hon'ble Supreme Court in the above referred Special Leave to Appeal. I do not find any force in the submissions of Mr R.C. Patil, learned counsel for the acquiring body. It has been made clear by the Hon'ble Supreme Court that the petitioners/claimants may approach to the High Court by way of appropriate applications for modifications of the order and point out the order passed by the Hon'ble Supreme Court for modification with caution that the order should be passed after giving an opportunity of being heard to the acquiring body. Accordingly, the acquiring body has been heard. This Court has

dealt with this issue in detail while passing the order dated 22.03.2022 and allowed the claimants to withdraw 60% remaining balance amount of the compensation.

11. I do not see any hurdle to allow these applications in view of clear directions given by the Hon'ble Supreme Court in the above referred order.

ORDER

- (i) The applications moved by the applicants/claimants are hereby allowed.
- (ii) The applicants/respective claimants are permitted to withdraw remaining 60% balance amount of compensation deposited by the acquiring body in this Court on furnishing solvent surety/security to the satisfaction of the Registrar (Judicial) of this Court.
- (iii) Upon furnishing solvent surety/security, the Registry to make payment to the applicants/respective claimants as per procedure.
- (iv) The civil applications are accordingly disposed of.

(SHRIKANT D. KULKARNI, J.)

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