

IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
BENCH AT AURANGABAD.

921 CIVIL APPLICATION NO.5102 OF 2022
IN FA/1846/2019

MUNAF RAHIMAN JAMGE
VERSUS
THE STATE OF MAHARASHTRA,
THROUGH THE COLLECTOR, OSMANABAD AND OTHERS

...
Advocate for Applicant : Mr. Ajeet B. Kale.
AGP for Respondent/State: Mr. A. B. Chate.
Advocate for Respondent No.3: Mr. G. B. Rajale.
...

CORAM : **SHRIKANT D. KULKARNI, J.**

DATE : 26th April, 2022.

P.C.:

. It is an application for withdrawal of remaining amount of compensation alongwith interest moved by the applicant/claimant.

2 Heard Mr. Kale, learned counsel for the applicant, Mr. Chate, learned AGP for respondent Nos.1 and 2 and Mr. G. B. Rajale, learned counsel for respondent No.3/acquiring body.

3 Perused the order passed earlier by this Court dated 23rd October, 2020 in Civil Application No.3735 of 2020 with connected matters.

4 Vide order dated 23rd October, 2020, this Court was pleased to allow the applicants to withdraw 25% of the amount of compensation on furnishing undertaking, 25% on furnishing solvent surety or solvent security and further 25% on furnishing bank guarantee of any scheduled bank to the satisfaction of the Registrar(Judicial) of this Court. The remaining 25% of the compensation amount was directed to be invested in FD account.

5 It is revealed during the course of argument that in view of the order passed earlier by this Court dated 23rd October, 2020, the applicants/claimants have withdrawn 50% of the amount of compensation by furnishing undertaking and the solvent surety. The question is about remaining balance amount of 50%. Mr. Kale submits that the present applicant/claimant is unable to furnish bank guarantee for withdrawal of 25% of the amount of compensation. The applicant is a senior citizen and more than 90 years old and he has sustained spinal injury and he needs money for his further medical treatment. He further submits that the claimants are also required remaining 25% amount, which is kept in F.D.R. He, therefore, urged to allow the prayers made by the applicant.

6 Mr. Rajale, learned counsel for acquiring body and Mr. Chate, learned AGP for State strongly opposed to allow this application.

7 On perusing the papers, it is revealed that the claimant/Munaf Rahiman Jamge has sustained spine injury and he needs money for his further line of treatment. He is now bed-ridden as appearing from the copies of medical papers placed on record by the learned counsel for applicant. Having considered the submissions of both the sides and looking to the earlier withdrawal of compensation, I am of the view that it would be appropriate to allow the applicant/claimant to withdraw 25% of the amount of compensation on furnishing solvent surety/security to the satisfaction of the Registrar (Judicial) of this Court, which would meet the ends of justice. There is no need to allow the applicant/claimant to withdraw any amount out of F.D.R. To that extent, the order passed earlier by this Court needs to be modified. Hence, the following order is passed:

ORDER

- I. The application is hereby allowed as under:
- II. The order dated 23rd October, 2020 is hereby modified in following terms in respect of clause (II).

“II. The applicant/claimant is hereby permitted to withdraw 25% of the amount of compensation on furnishing solvent surety/

security to the satisfaction of the Registrar (Judicial) of this Court, apart from earlier payment.”

III. The application is accordingly disposed of.

[SHRIKANT D. KULKARNI, J.]

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