

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

98 CIVIL APPLICATION NO.8307 OF 2022
IN FAST/581/2019

DNYANDEO VITHOBHA DUDHE
VERSUS
DY. CHIEF ENGINEER, (CONSTRUCTION) CENTRAL RAILWAY,
SOLAPUR PRO. PARTY IS DY. CHIEF AND ORS

...
Advocate for Applicants : Mr. U.M. Mhaske Patil h/f
Jadhav Narsing Bankatrao
Advocate for respondent No.1 : Mr. M. N. Navandar
AGP for Respondent State : Mr. S. S. Dande
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CORAM : S. G. DIGE, J.
DATE : 11.07.2022

PER COURT :-

Heard learned counsel for the applicant and learned counsel for respondent.

2. Learned counsel for the applicant submits that applicant has not received any compensation amount though applicant land is acquired by the respondent. The applicant is agriculturist. He is totally depending upon agricultural yield. He needs the amount for his day to day business. Hence requested to allow the applicant to withdraw amount deposited by respondent No.1.

3. Learned counsel for respondent No.1 strongly

oppose for withdrawal of the amount on the ground that respondent No.1 has preferred appeal against the impugned order. If respondent succeed in appeal then it is difficult for respondent No.1 to recover the amount. Hence requested to dismiss the application.

4. I have heard both the sides. Admittedly the land of applicant is acquired by respondent No.1. Applicant has not received any compensation amount. The Judgment and award passed by learned reference court is challenged by respondent No.1. This Court coram : Shrikant D. Kulkarni, J. has passed the order allowing 75% withdrawal of the amount in similar award hence I pass the following order.

ORDER

- (I) The application is hereby allowed as under :
- (ii) The applicant/claimant is permitted to withdraw 50% of the amount of compensation with accrued interest thereon on furnishing usual undertaking with the Reference Court.
- (iii) The applicant/claimant is further permitted to withdraw 25% of the amount of compensation with accrued interest thereon on furnishing solvent surety/security to the satisfaction of the Reference

Court.

- (iv) The Registry is directed to transfer 75% of the amount of compensation with accrued interest thereon to the Reference Court for making payment thereof in view of the above terms and conditions.
- (v) Remaining 25% balance amount shall be invested in fixed deposit account in any Nationalized Bank initially for a period of one year with renewal clause by the Registry.
- (vi) The Civil application is disposed of accordingly.

**(S.G. DIGE,)
JUDGE**

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