

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

**939 CIVIL APPLICATION NO.8819 OF 2022
IN FA/127/2021**

**NIMBADAS S/O PANDURANG PATIL (MAKWAN)
VERSUS**

**THE EXECUTIVE ENGINEER, HATNUR PRO. DIV. CHOPDA
NOW OFFICE AT, LOWER TAPI PRO. DIV. AMALNER AND ANR**

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Mr. P.B. Patil, Advocate for the applicant.
Mr. Subhash Chillarge, Advocate for respondent No.1.
Mr. A.B. Chate, A.G.P. for respondent No.2.

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CORAM : SANDIPKUMAR C. MORE, J.

DATED : 29.11.2022.

ORDER:-

1. Heard rival submissions. The applicant is seeking permission to withdraw the entire amount of compensation which has been deposited by the Acquiring Body. According to the learned Counsel for the Acquiring Body, the Acquiring Body has deposited only 50% amount of the impugned award. During the course of argument the learned Counsel for the Acquiring Body submits that he will not be having any objection if the amount of compensation granted only in respect of the land by the Reference Court, is given to the applicant. As per the chart marked as "X", the value of said land is mentioned as Rs. 29,87,815/- for which the Acquiring Body has no objection for withdrawal.

2. For the remaining amount, which appears to be granted for fruit bearing trees, the learned Counsel for the Acquiring Body raised strong objection since it was awarded by

the learned Reference Court by relying upon the valuer's report. He submitted that as per the joint measurement carried out in the year 2012, no such trees were found. Thus, it appears that there is dispute only in respect of grant of compensation by the learned Reference Court in respect of fruit bearing trees. The learned Counsel for the applicant submits that the applicant is ready to furnish the bank guarantee if certain amount of the compensation in respect of fruit bearing trees is released. As such, following order is passed.

ORDER

- (i) The applicant is permitted to withdraw the amount of Rs. 29,87,815/- alongwith the accrued interest thereon till date, on furnishing usual undertaking before the learned Registrar (Judicial) of this Court.
- (ii) The applicant is also permitted further to withdraw the amount of only Rs.50,00,000/- (Rupees Fifty Lakh) from the deposited amount on furnishing bank guarantee of any Nationalized Bank to that effect which is to be continued till final disposal of this appeal.
- (iii) The remaining amount be invested in F.D.R. in any Nationalized Bank on yearly renewal basis, till final disposal of the appeal.
- (iv) The application is accordingly disposed of.

(SANDIPKUMAR C. MORE, J.)