

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

**11 CIVIL APPLICATION NO.10566 OF 2022
IN FA/2634/2021
WITH
CA/11950/2021 IN FA/2634/2021**

**BABANRAO HARICHANDRA PERE
VERSUS
THE ADMINISTRATOR, CIDCO, AURANGABAD AND ANR**

...
Advocate for Applicant : Mr.Bhandari Anand P.
Advocate for Respondent No. 1 : Mr.A.S.Bajaj
AGP for Respondent No. 2 -State : Mr.A.S.Shinde
...

**CORAM : MANGESH S. PATIL &
SANDEEP V. MARNE, JJ.**

DATE : 10.08.2022.

PER COURT :

1. This is an application by the original Claimant seeking withdrawal of the amount which constitutes 60% of the amount of award, subject to deposit of which, the execution of the award under challenge has been stayed by this Court, by the order dated 06.12.2022.

2. The learned Advocate Mr. Bhandari for the applicant submits that it is a matter of land acquisition. Though the award is under challenge and the appeal has been admitted, the entire amount of the award has not been directed to be deposited. The Stay

has been granted on depositing of 60% of the amount. The Claimants may be allowed to withdraw the amount, by imposing conditions and furnishing appropriate security.

3. The learned Advocate Mr. Bajaj, for the acquiring body and the appellant submits that an exorbitant hike has been given by the reference Court. One of the sale deeds relied upon was executed after notification under Section 126 (4) of the M.R.T.P. Act was issued. It was issued in the year 2010 whereas, the sale instance is of 2012. The sale deed, apparently, has been brought in existence objectively. The vendor is the husband of the purchaser wife. Over looking these aspects the award has been passed. Since it involves public money, the claimants may not be allowed to withdraw the money. He further submits that a copy of the sale deed was not with him when the arguments were advanced on the application for stay on which the order was passed on 06.12.2021 and above facts may be considered.

4. Bearing in mind the fact that it is a matter of land acquisition, the claimants are entitled to have appropriate compensation and should be allowed to derive same benefit.

5. Whether and under what circumstances the award was

passed is a matter to be kept in mind while deciding the First Appeal. The fact remains that by the order dated 06.12.2021, for the reasons mentioned therein, operation of the award has been stayed, subject to deposit of 60% of the amount of the award.

6. Without indulging into any further scrutiny touching the merits of the award, in our considered view, it would be appropriate to permit the petitioner to withdraw 75% of the amount deposited in the Court, 50% on furnishing an undertaking and remaining 25% on furnishing a solvent security.

7. The Civil Application is disposed of.

8. The stay application stands disposed of.

(SANDEEP V. MARNE)
JUDGE

(MANGESH S. PATIL)
JUDGE