

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

CIVIL APPLICATION NO.9417 OF 2022
IN FIRST APPEAL NO. 980 OF 2021

SHIVAJI MARUTI KHOT
VERSUS
THE STATE OF MAHARASHTRA THR DIST COLLECTOR AT
LATUR AND OTHERS

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Advocate for Applicant : Mr. B.M. Dhanure
AGP for Respondent No.1 and 3 : Ms. D.S. Jape
Advocate for Respondent No.2 : Mr. S.C. Arora h/f.
Mr. Apparao Yenegure

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CORAM : S.G. DIGE, J.
DATE : 12th July, 2022

ORDER :

. Heard learned Counsel for applicant and learned Counsel for respondent No.2 and learned A.G.P. for respondent Nos.1 and 3.

2. Learned Counsel for applicant submits that, respondent No.2 - appellant has impugned judgment and award of reference Court before this Court. The respondent No.2 has deposited the entire award amount before this Court. Agricultural lands of applicant are acquired by the respondent authorities for public purpose,

yet the applicant has not received the compensation of said acquired lands. The applicant is poor agriculturist. He is facing financial crisis and there is paucity of funds as he has no other source of income.

3. Learned Counsel further submits that, in connected group of matters this Court has allowed 100% withdrawal of amount deposited. Hence, requested to pass same order.

4. Learned Counsel for respondent No.2 strongly objected for withdrawal of 100% amount on various grounds. One of the ground is that, learned Reference Court has granted excessive amount of compensation. If respondents succeed in appeal, it would be difficult for respondent No.2 to recover the said amount. Learned Counsel for respondent No.2 further submits that, order passed in connected group of matter cannot be precedent to allow to withdraw 100% amount.

5. I have heard both the learned Counsel. Admittedly, lands of applicant are acquired by respondent

No.2. The judgment and award passed by learned Reference Court is challenged by respondent No.2. The entire award amount is deposited before this Court. Applicant is poor agriculturist. He has no source of income. He needs the amount for his daily business. In connected group of matters, 100% amount is permitted to withdraw. In my view, though learned Counsel for respondent No.2 submits that, if respondent No.2 succeeds in the appeal then it is difficult for the respondent No.2 to recover the amount. If solvent surety for some amount is taken, it would meet the ends of justice. Hence, I pass the following order :-

ORDER

- a. Application is allowed.
- b. Applicant is permitted to withdraw 60% amount by giving usual undertaking and 40% amount by furnishing solvent surety.
- c. Application is disposed of.

**[S.G. DIGE]
JUDGE**