

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

CIVIL APPLICATION NO. 11580 OF 2022
IN FIRST APPEAL NO. 136 OF 2020

DATTATRAYA VITHOBA HOLDE AND OTHERS
VERSUS
THE STATE OF MAHARASHTRA THR THE COLLECTOR
LATUR AND OTHERS

...
Advocate for Applicants : Mr. G.K. Sontakke
AGP for Respondent Nos.1 and 2 : Ms. D.S. Jape
....

CORAM : S.G. DIGE, J.
DATE : 14th September, 2022

ORDER :

. Heard learned Counsel for applicants, learned Counsel for acquiring body and learned Counsel for for intervenor.

2. Learned Counsel for applicants submits that, this Court (Coram : V.L. Achaliya, J.) has permitted the applicants to withdraw 40% amount out of deposited amount. The said order was challenge before the Hon'ble Apex Court. The Hon'ble Apex Court has directed to

consider the applications for withdrawal of 60% amount. Hence, requested to allow the application.

3. Learned Counsel for acquiring body submits that, solvent surety / security be taken while permitting the applicants for withdrawing the amount.

4. Learned Counsel for intervenor submits that, intervenor is the real brother of the applicant and he has filed suit for the partition before the learned Civil Judge, Senior Division, Latur which is pending. The award amount which comes to his share be reserved and shall not be permitted to applicants to withdraw it.

5. Learned Counsel for applicants submits that, intervenor do not object before the Special Land Acquisition Officer nor before the learned Reference Court. For the first time he has filed this application before this Court. He has no right in the amount and the applicants are ready to file undertaking mentioning that, in case intervenor succeeds to prove his share in the acquired land, he is ready to give the share to the

intervenor.

6. I have heard all the learned Counsel. Considering the submissions of all learned Counsel as well as order passed by the Hon'ble Apex Court, I pass the following order :-

ORDER

- (a) Application is allowed.
- (b) Applicants are permitted to withdraw remaining 60% amount along-with accrued interest thereon on furnishing solvent surety / security.
- (c) Applicants shall file undertaking regarding share of intervenor.
- (d) The Civil Application is disposed of.

[S.G. DIGE, J.]