

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

12 CIVIL APPLICATION NO.710 OF 2022
IN CA NO. 8479 IN FA/1526/2012

GIRJABAI APPARAO HUDAGE (DIED)
THR LRS SUDHAKAR AND ORS

VERSUS

THE G.M.I.D.C THR ITS EX. ENGINEER,
LATUR AND ANR

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Advocate for Applicants : Mr G.K. Sontakke (Patil)
Advocate for Respondent No.1 : Mr S.G. Sangle
AGP for Respondent No. 2 : Mr A.B. Chate

CORAM : SHRIKANT D. KULKARNI, J.

DATE : 28th February 2022

PER COURT :

1. It is an application for modification of order moved by the applicants dated 18.11.2019 passed by this Court.
2. Heard Mr G.K. Sontakke, learned counsel for the applicants , Mr S.G. Sangle, learned counsel for respondent No.1/acquiring body and Mr A.B. Chate, learned AGP for respondent No.2/State.
3. Perused the order passed by this Court dated 21st December, 2017 and 18th November, 2019.
4. Vide order dated 21st December, 2017, this Court was pleased to allow the applicants to withdraw rest of the 60% amount on furnishing bank guarantee of like amount of any nationalized bank in this Court. That order came to be modified on 18th February, 2019 and permitted the applicants to withdraw the same percentage of compensation amount on furnishing bank guarantee of like amount of any nationalized bank or scheduled bank.

5. It is pointed out by Mr S.G. Sangle, learned counsel appearing for the acquiring body/respondent No. 1 that this Court has made it clear in the order dated 21st December, 2017 itself that there would not be any further modification in the order in respect of furnishing bank guarantee for withdrawal of the amount. In view of this specific clause mentioned in the order itself dated 21st December, 2017, Mr Sangle submits that the prayer cannot entertained.

6. On the other hand, Mr Sontakke, learned counsel for the applicants submitted that that order is modified on 18th February, 2019 and as such, that clause does not remain.

7. Having regard to the submissions of the learned counsel for both the sides and on perusing the earlier orders passed by this Court on 21st December, 2017 and 18th November, 2019, the prayer for modification of the order dated 18th November, 2019 cannot be entertained.

8. The appeal is sub judice before the Court and in order to protect the rights and interest of the appellant involved in the appeal and the order of withdrawal of money, this specific clause seems to have been mentioned by this Court. There are no extraordinary circumstances to relax the condition mentioned in the order dated 18th November, 2019. The applicants are at liberty to furnish bank guarantee of any nationalized or scheduled bank.

9. Under these circumstances, the application stands rejected.

(SHRIKANT D. KULKARNI, J.)