

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO. 9335 OF 2022

Nilima Rajendra Thakkar

..Petitioner.

v/s.

Gurunath Kashinath Dukhale & Ors.

..Respondents

Mr. P.D.Dalvi i/b. Satya Shettigar with Adv. Ram Mohite for the Petitioner.

Mr. Mayur Khandeparkar a/w. Mr. Yogesh Rawool, Adv, Prvada Raut and Mr. Shailesh Redekar for the Respondent.

**CORAM : ANUJA PRABHUDESSAI, J.
DATED : 2nd AUGUST, 2022.**

P.C.

1. The Petitioner herein has challenged the order dated 02.07.2022, whereby the learned Civil Judge, Senior Division, Vasai has allowed the Respondent Nos.1 to 4 to withdraw an amount of Rs.1,30,63,260/- after deducting Rs.50,00,000/- to secure the interest of the Petitioner herein.

2. The Petitioner had entered into an agreement to purchase the land from Survey No.99 Hissa No.9 of Village Gokiware for consideration of Rs.10,00,000/-. The suit for specific performance of the said agreement is pending . The acquisition proceedings in respect of the said land had commenced and Section 20A notification under the Indian Railway Act was already issued.

3. It is stated that the compensation of Rs.1.80,63,260/- has been

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awarded in respect of the acquired land which is the subject of the suit. Apprehending that the Respondent would claim the compensation, the Petitioner had an filed application at Exhibit 5 seeking to restrain the Competent Authority from disbursing the amount. The said application was dismissed by the trial Court. In appeal, the learned District Judge restrained the Competent Authority from disbursing the compensation and directed him to deposit the entire amount in the Court of Civil Judge, Senior Division.

4. Aggrieved by the said order, the Respondents filed Writ Petition (St) No. 98457 of 2020 before this Court, which was dismissed by Order dated 2.3.2021, but had granted liberty to the Respondent Nos.1 -4 to move the trial court to withdraw part of the amount of compensation, by detaining part of the amount of compensation so as to cater the interest of the petitioner in case the suit is decreed to the extent of refund of consideration and award of compensation. Pursuant to the said order, Respondents 1 – 4 filed an application before the trial Court for withdrawal of compensation. Considering the fact that the Petitioners had paid total consideration of Rs.10 lakhs to Respondent Nos.1 to 4 towards the sale consideration, the trial Court detained an amount of Rs.50 lakhs to secure the interest of the Petitioners in the event he succeeds in the suit.

5. The order of the trial Court is in consonance with the order of this Court. In the light of the said order, the Petitioner cannot be heard to

say that the Respondents are not entitled to withdraw any amount or that they are entitled for the entire amount. The impugned order does not suffer from any infirmity. No case is made out to interfere with the impugned order. Hence the petition stands dismissed.

(ANUJA PRABHUDESSAI, J.)