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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

VASANT
ANANDRAO
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WRIT PETITION NO.8325 OF 2021

Bhimrao Chavan & Ors.

...Petitioners

V/s.

The Competent Authority Land Acquisition
& Sub-Divisional Officer, Malshiras & Ors.

...Respondents

Mr.Anilkumar K. Patil with Ms.Sonal Rajput for the Petitioners.

Mr.A.P. Vanarase, AGP for the State – Respondent Nos.1 and 6.

Ms.Akansha Helaskar for the Respondent Nos.2 to 4.

CORAM : R.D. DHANUKA &
M.M. SATHAYE , JJ.
DATE : 13TH DECEMBER, 2022.

P.C. :-

1. The matter is placed in view of the praecipe filed by the respondent nos.2 and 4 for seeking permission to withdraw partial amount already deposited with the Competent Authority.
2. This Court passed an order dated 1st December, 2021 in this writ petition recording that the suit bearing RCS No.650 of 2020 filed by the respondent no.5 is pending before the learned Civil Judge (Junior Division), Malshiras. The 1/3rd amount is lying deposited by the respondent authority in the said suit before the Civil Judge

(Junior Division), Malshiras. The said amount lying deposited with the Competent Authority is not disbursed.

3. Learned counsel for the respondent nos.2 to 4 submitted that the petitioners also have filed a separate suit being RCS No.38 of 2021. In view of the application filed by the respondent nos. 2 to 4 in the said suit about the maintainability of the said suit on the ground of jurisdiction, learned Civil Judge (Senior Division), Malshiras has disposed of the said suit as withdrawn and granted liberty to the petitioners herein to file a fresh suit on the same cause of action. Mr.Patil, learned counsel for the petitioners states that in pursuance of the said liberty granted by the Civil Judge (Senior Division), Malshiras, his clients have already filed a fresh suit yesterday for the same cause of action. Statement is accepted.

4. In view of the rival contentions made by the parties, this Court had granted *status-quo* in respect of the amount of compensation. Since the amount is lying deposited with the Civil Judge (Senior Division), Malshiras in the said suit already filed by the respondents and some amount is lying with the Competent Authority, we grant liberty to all the parties to apply for withdrawal of the amount by filing an application before the Civil Judge (Senior Division), Malshiras in the said civil suit filed by the respondent no.5. If any such application for withdrawal of the amount is filed, the Civil Judge

(Senior Division), Malshiras to pass appropriate order after hearing all the parties and to decide on its own merits, whether withdrawal of any of the amount can be permitted and if so on what condition. Learned Trial Court is directed to club suit bearing No.2221 of 2022 along with the suit filed by the respondent no.5 and to consider the application for withdrawal in both the suits as may be filed by the parties.

5. Mr.Patil, learned counsel for the petitioners states that in view of the order passed by this Court, nothing survives in the writ petition, as the interest of all the parties are protected by granting an opportunity to make an application for withdrawal of the amount before the Civil Judge (Senior Division), Malshiras. Statement is accepted.

6. The writ petition is disposed of in aforesaid terms. There shall be no order as to costs.

(M.M. SATHAYE , J.)

(R.D. DHANUKA, J.)