

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

**INTERIM APPLICATION NO. 30122 OF 2022
IN
FIRST APPEAL (ST.) NO. 32667 OF 2018**

Deoram Popat Gade ... Applicant/Appellant

Versus

The Executive Engineer, Nandur
Madhameshwar Project, Nashik & Anr. ... Respondents

**WITH
INTERIM APPLICATION (ST.) NO. 28069 OF 2022
IN
FIRST APPEAL (ST.) NO. 32622 OF 2018**

**WITH
INTERIM APPLICATION NO. 30125 OF 2022
IN
FIRST APPEAL (ST.) NO. 32616 OF 2018**

**WITH
INTERIM APPLICATION NO. 30126 OF 2022
IN
FIRST APPEAL (ST.) NO. 32634 OF 2018**

**WITH
INTERIM APPLICATION NO. 30121 OF 2022
IN
FIRST APPEAL (ST.) NO. 32676 OF 2018**

**WITH
INTERIM APPLICATION NO. 30118 OF 2022
IN
FIRST APPEAL (ST.) NO. 32652 OF 2018**

WITH
INTERIM APPLICATION NO. 30123 OF 2022
IN
FIRST APPEAL (ST.) NO. 32619 OF 2018

WITH
INTERIM APPLICATION NO. 30120 OF 2022
IN
FIRST APPEAL (ST.) NO. 32658 OF 2018

WITH
INTERIM APPLICATION NO. 30124 OF 2022
IN
FIRST APPEAL (ST.) NO. 32631 OF 2018

WITH
INTERIM APPLICATION NO. 30134 OF 2022
IN
FIRST APPEAL (ST.) NO. 32673 OF 2018

WITH
INTERIM APPLICATION NO. 30130 OF 2022
IN
FIRST APPEAL (ST.) NO. 32637 OF 2018

WITH
INTERIM APPLICATION NO. 30119 OF 2022
IN
FIRST APPEAL (ST.) NO. 32643 OF 2018

WITH
INTERIM APPLICATION NO. 30127 OF 2022
IN
FIRST APPEAL (ST.) NO. 32670 OF 2018

WITH
INTERIM APPLICATION NO. 30136 OF 2022
IN
FIRST APPEAL (ST.) NO. 32625 OF 2018

WITH
INTERIM APPLICATION NO. 30129 OF 2022
IN
FIRST APPEAL (ST.) NO. 32628 OF 2018

WITH
INTERIM APPLICATION (ST.) NO. 28861 OF 2022
IN
FIRST APPEAL (ST.) NO. 32664 OF 2018

WITH
INTERIM APPLICATION NO. 30138 OF 2022
IN
FIRST APPEAL (ST.) NO. 31817 OF 2018

WITH
INTERIM APPLICATION NO. 30128 OF 2022
IN
FIRST APPEAL (ST.) NO. 32655 OF 2018

Ms. Chaitrali A. Deshmukh for the Applicant/Appellant.
Mr. Pritesh Bohade for the Applicants/Claimants/Respondents in F.A.
Ms. Tanaya Goswami, A.G.P. for the Respondent-State.

CORAM : R.I. CHAGLA, J.

DATED : 22nd DECEMBER, 2022.

ORDER :

1 By these Interim Applications the Respondents/Claimants are seeking permission to withdraw some amount of the awarded amount deposited by the Respondent with interest thereon. By the order dated 18.06.2019, the learned Advocate for the Applicant had undertaken to

deposit the entire amount before the Reference Court as per the award within a period of eight weeks. In the light of the statement which was accepted by this Court, execution of the impugned judgment and award was stayed till the next date. In compliance with the said order dated 18.06.2019, the Appellants have deposited the entire amount awarded before the Reference Court. The Respondents/Claimants who are the Applicants in the above Interim Applications have in paragraph 5 stated that the Applicants are not be in a position to enjoy the benefits of the compensation awarded by the Reference Court eight years back. The Applicants have further stated that due to the Covid-19 pandemic, the family is in huge financial difficulty. Accordingly, the present applications have made.

2 I have considered the averments in the Interim Applications as well as taken note of the fact though the entire amount awarded by the Reference Court was deposited by the Appellants pursuant to the order dated 18.06.2019 within eight weeks therefrom, the present Interim Application has been only taken out on 09.09.2022. Thus, the Applicants have not shown grave urgency in taking out the Interim Application for the withdrawal of the amount deposited. However, considering that the Applicants have relied upon the Covid-19 pandemic as well as being engaged in agriculture in District Nashik, a lenient view is taken as to the

delay in taking out the Interim Applications. Further, the Applicants appear to be suffering huge financial difficulty. Thus, considering the case made out by the Applicants, 50% of the amount deposited is permitted to be withdrawn. Hence, the following order is passed :

- i) The Applicant/Original Claimants are permitted to withdraw 50% of the amount deposited by the Appellants before the Reference Court upon furnishing an undertaking against disbursement that in the event the Appellants succeeds in the Appeal, the Applicants/Original Claimants will return the amount with interest at such rate as determined by this Court.
- ii) If 50% amount is withdrawn by the Applicants, balance amount shall be invested by the Reference Court in a fixed deposit with a Nationalized Bank.
- iii) Interim Applications are disposed of accordingly.

(R.I. CHAGLA, J.)