

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

CIVIL APPLICATION (F) NO.780 OF 2022

IN

FIRST APPEAL NO.293 OF 2018

{Maharashtra Industrial Development Corporation ..Vrs.. Smt. Pramila
Sheshrao Hage}

*Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders.*

Court's or Judge's order

Shri M. M. Agnihotri, Advocate for the Appellant.

Shri S. C. Mehadia, Advocate for the Respondents No.1 (i) a to 1 (v)

CORAM : ABHAY AHUJA, J.

DATE : 17th OCTOBER, 2022.

. Today in pursuance of this Court's order dated 03.10.2022, an affidavit dated 16.10.2022 affirmed by the Regional Officer of M.I.D.C., Amravati, is being filed explaining how the error in paragraph 10 of their earlier affidavit had been committed. There is also a calculation sheet, which has been annexed to the said affidavit indicating the total balance amount that would be deposited in this Court.

2. Shri Agnihotri, learned counsel for Appellant states that he has a Demand Draft, which he will deposit in the Registry of this Court.

3. Shri Mehadia, learned counsel for the Respondents/Claimants seeks some time to verify the calculation sheet.

4. In the meanwhile, let the Demand Draft of Rs.91,21,760/- be deposited in this Court during the course of this week.

5. With respect to the application for withdrawal made on behalf of the Claimants, Shri Agnihotri, learned counsel would submit that withdrawal only to the extent of Rs.1,25,000/- per hectare should be permitted. He tenders across the bar a decision of this Court dated 19.07.2017 in *First Appeal No.483 of 2010 (Sk. Mohammad Sk. Bahira and Others ..Vrs.. The State of Maharashtra and Others)*, wherein this Court, in respect of the same village, same notification and same award has allowed a compensation of Rs.1,25,000/- per hectare with statutory benefits. Learned counsel would submit that to his knowledge, the said decision has not been challenged as yet.

6. On the other hand, Shri Mehadia, learned counsel for the Respondents/Claimants draws the attention of this Court to the order dated 02.08.2019, pursuant to which, the Claimants were permitted to withdraw 75% of the amount deposited by the Appellant before this Court (50% on usual undertaking and 25% on furnishing solvent surety/security to the satisfaction of the Registrar (J) of this Court). He would submit that the Appellant failed to deposit the entire amount and if the entire amount had been deposited, the Claimants should have withdrawn 75% of the entire amount, whereas as thing stands, they have only withdrawn 75% of the part amount that was deposited in this Court.

7. Shri Agnihotri, learned counsel submits that in the event, this Court is inclined to allow 75% withdrawal of the amount be deposited in this Court, then the amount remaining after calculating Rs.1,25,000/- per hectare be allowed to be withdrawn on furnishing a bank guarantee for

the same.

8. I have heard both the learned counsel appearing for the parties.

9. There is no doubt that on 02.08.2019, this Court had permitted withdrawal of 75% of the amount deposited by the Appellant in this Court. It is also observed that by earlier order dated 04.09.2018 in Civil Application No.3146 of 2015, on the statement that the Acquiring Body will be depositing the entire decretal amount, a stay was granted on the execution of the impugned judgment.

10. In my view, therefore it appears that the withdrawal of 75% of the entire amount of the compensation would have been available for withdrawal to the Claimants pursuant to order dated 02.08.2019. No doubt what is submitted by Shri Agnihotri, learned counsel may have some weight, but that can be considered at the time of final hearing. In the fitness of things, therefore it would be appropriate to permit the Claimants to withdraw 75% of the balance amount being deposited by the Acquiring Body on the following terms :

i) Let 50% of the said amount be withdrawn on the basis of usual undertaking and ii) 25% on furnishing solvent surety/security to the satisfaction of the Registrar (J) of this Court.

11. The civil application accordingly stands disposed.

FIRST APPEAL NO.293 OF 2018

12. Considering the decision of this Court in First Appeal No.483 of 2010 with First Appeal No.534 of 2010 (supra), in the interest of justice, let this appeal be heard expeditiously.

13. Let the paper book be filed within a period of four weeks with an advance copy to the other side.

14. List the matter for final disposal on 28.11.2022. at 2.30 p.m.

(JUDGE)

TAMBE