

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD
CIVIL APPLICATION NO.7876 OF 2022
IN FA/697/2020**

**DADASAHEB DNYANOBA KAPASE
VERSUS
THE EX. ENGINEER, MINOR IRRIGATION DIVISION,
OSMANABAD AND ORS**

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Mr. P. B. Rakhunde, Advocate for the Applicant.

Mr. R. B. Deshpande, Advocate for Respondent No.1.

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**CORAM : S. G. CHAPALGAONKAR, J.
DATE : 04th AUGUST, 2023.**

PER COURT:-

1. This is second application for withdrawal of the amount. Earlier the applicant was permitted to withdraw 50% of the amount deposited by the respondent-Acquiring Body vide order dated 01.07.2021 passed in Civil Application No.4356/2021.

2. By the present application, the applicant seeks further withdrawal of 25% of the amount on the ground that the applicant is suffering from medical emergency and requires amount for such expenses.

3. Mr. Rakhunde, learned Advocate appearing for the applicant further submits that in the other matters arising out of same award, the original claimants are permitted to withdraw 75% of the amount by order dated 19.06.2023 passed by this Court. He would further submits that he is ready to furnish solvent surety/security, if he is permitted to withdraw additional amount.

4. Mr. Deshpande, learned Advocate appearing for the respondent-Acquiring Body submits that already applicant is

permitted to withdraw 50% of the amount. There are good grounds in the appeal. He would further submit that the medical papers placed on record are old one and does not show any on going treatment. He submits that in case this Court permits any further withdrawal, it should be with stringent condition by which the recovery of the amount can be secured in case the appeal of the Acquiring Body is favourably considered.

5. Having considered the submissions advanced, it is apparent that some of the applicants from same acquisition have received 75% of the awarded amount under orders of this Court. Therefore, the principle of parity requires that the applicant shall also be permitted to withdraw the similar amount, however, by putting certain conditions. Hence, the following order:-

ORDER

- a. Civil Application is allowed.
- b. The applicant is permitted to withdraw additional 20% amount from the amount deposited by Acquiring Body subject to furnishing of solvent surety/security to the satisfaction of the Registrar (Judicial) of this Court. It is made clear that, no further application for withdrawal shall be entertained.
- c. Remaining amount be kept in Fixed Deposit with the Nationalized Bank initially for a period of one year with renewal clause.
- d. Civil Application is disposed of.

(S. G. CHAPALGAONKAR)
JUDGE