

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

**CIVIL APPLICATION NO.6792 OF 2023
IN FA/125/2020**

**BABU NARSING UPGANDALE (DIED) THR LRS. BALAJI
BABURAOUPAGANDALE AND ORS
VERSUS
THE STATE OF MAHARASHTRA, THROUGH THE COLLECTOR, LATUR
AND ORS**

...

Advocate for Applicants : Mr. G.K. Sontakke
AGP for Respondents 1 and 2: Mr. S.S. Dande.
Adv. For respondent Nos. 3 and 4 : Mr. S.G. Bhalerao.

CORAM : S.G. CHAPALGAONKAR, J.

DATE : 10TH JULY, 2023

ORDER :-

By this application, the applicants are seeking withdrawal of the amount deposited by the appellant acquiring body. The learned advocate for the applicants invite attention of this court to the earlier orders passed in connected matters. He would submit that initially, this court had permitted withdrawal of 40% of the amount deposited in this appeal. However, in second appeal filed against said order, the Honourable Supreme Court directed this court to consider further withdrawal. Thereafter, this court granted withdrawal of 100% amount deposited by the appellant. He would submit that he would ensure compliance of conditions as were put to the other applicants.

2. Mr. Bhalerao, appearing for the acquiring body submits that

although previously this court had permitted withdrawal, it is necessary to take into account the law laid down by the Supreme Court in ***State of Maharashtra Vs. Kailash reported in 2016(4) All.M.R. 516.***

3. Having considered the submissions advanced, it is apparent that already this court has exercised discretion while allowing withdrawal of the amount in the group of matters. This application is only the one who is left. Therefore, no differential treatment can be given to the applicants. In that view of the matter, the following order :-

: O R D E R :

[I] the application is allowed.

[II] The applicants/claimants are permitted to withdraw 40% of the amount deposited by the Acquiring Body on furnishing undertaking to the satisfaction of the Registrar (Judicial) of this court that in the event of award being modified or set aside, the applicants shall re-deposit the amount within 8 weeks from the date of passing of such order by this Court.

[III] Balance 60% amount is permitted to be withdrawn subject to furnishing solvent surety/security to the satisfaction of the Registrar (Judicial) alongwith interest accrued thereon.

[IV] Civil application is disposed of.

[S.G. CHAPALGAONKAR]
JUDGE

grt/-