

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

**913 CIVIL APPLICATION NO.5578 OF 2023
IN FA/4204/2017**

**MANOHAR ANANDA THOMBARE (SINCE DIED) THR LRS. MANKARNABAI
MANOHAR THOMBRE AND ORS
VERSUS**

THE STATE OF MAHARASHTRA THROUGH COLLECTOR, JALNA AND ORS

Mr.S.B. Joshi h/f.J.P. Legal Associates, Advocate for the applicant.

Mr.S.B.Pulkundwar, AGP for the respondent/State.

**CORAM : KISHORE C. SANT, J.
DATED : 09.11.2023**

PC :-

01. Heard learned Advocates for the parties. This Civil Application is moved by the applicants seeking withdrawal of part of the amount deposited by the acquiring body in this Court towards acquisition of the land. The appellant-acquiring body has challenged the award, whereby the learned Reference Court has enhanced the amount of compensation. While preferring the appeal towards conditional stay, 100% amount of compensation under the award is deposited. Out of the said amount 50% amount is already withdrawn pursuant to order dated 10.01.2018. This application is now moved for withdrawal of remaining 50% of the amount. The application is filed on 27.09.2022. In subsequent development unfortunately applicant No.1C - Sominath Manohar Thombre is detected

with Cancer. It is orally submitted that now for the said treatment the said amount is required. A report dated 22.04.2023 of Histopathology is tendered on record.

02. The learned Advocate for the respondent/appellant opposes the application stating that already 50% amount was withdrawn. In this case Rs.82 lakhs and some odd amount is deposited. Out of which Rs. 41 lakhs and some odd amount is already withdrawn. Considering that the amount is a huge amount, it would be difficult to recover the same in case appeal is allowed by this Court.

03. However, considering the emergent situation, this Court feels that the applicants be permitted to withdraw further 25% of the total deposited amount on furnishing solvent surety/security to the satisfaction of the Registrar (Judicial) of this Court. Hence, following order :-

O R D E R

(i) The Civil Application is partly allowed.

(ii) The applicants shall be entitled to

(3)

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receive 25% of total amount deposited by the appellant in this Court along with accrued interest, if any, on furnishing solvent surety/security to the satisfaction of the Registrar (Judicial) of this Court. So far as remaining 25% amount is concerned, it be invested as per earlier order.

[KISHORE C. SANT, J.]