

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

**CIVIL APPLICATION NO.16978 OF 2022
IN
FIRST APPEAL NO.1836 OF 2020**

Maruti S/o Vaijnath Birajdar,
Age-68 years, Occu:Agril.,
R/o-Jekekur, Tq-Omerga,
Dist-Osmanabad

...APPLICANT

VERSUS

- 1) The Regional Officer,
Maharashtra Industrial Development
Corporation at Latur,
- 2) The State of Maharashtra,
Through Collector, Osmanabad,
- 3) The S.D.O. & Special Land Acquisition
Officer, Osmanabad.

...RESPONDENTS

...
Mr.Santosh N. Patne Advocate for Applicant.
Mr.S.D. Dande Advocate for Respondent No.1.
...

**CORAM: SMT. VIBHA KANKANWADI AND
ABHAY S. WAGHWASE, JJ.**

DATE : 4th JANUARY, 2023

ORDER :

1. Present Application has been filed for permitting the applicant to withdraw remaining 50% amount along with the

interest accrued thereon.

2. Heard Mr. Patne, learned Advocate appearing for the applicant and Mr. Dande, learned Advocate appearing for the acquiring body.

3. By order dated 23rd August 2019 this Court in Civil Application No.6735 of 2019 allowed the applicant i.e. present applicant to withdraw 50% of the amount deposited in this Court and the remaining amount was directed to be invested in fixed deposit in any nationalized bank. Thereafter, it appears that another application was moved by the applicant, bearing Civil Application No.13352 of 2022 for withdrawal of remaining amount and this Court by order dated 22nd September 2022 disposed of that application by observing that already 50% of the amount has been allowed to be withdrawn by the applicant and no reason has been shown to consider the request. Still, now the present application has been filed by the applicant.

4. Learned Advocate for the applicant submits that in bunch of first appeals arising out of same acquisition, applications were

filed by respondents – claimants for withdrawal of the amounts bearing Civil Application No.3855 of 2022 (Suryabhan Shankar Birajdar (Died) through Lrs Mohan and others vs. the State of Maharashtra, through Collector, Osmanabad and another) and companion matters, and this Court, by order dated 29th April 2022 allowed those applications by observing that the Hon'ble Apex Court in similar matters has permitted the claimants to withdraw remaining 50% amount and thereupon the withdrawal was permitted and therefore, present applicant deserves similar treatment.

5. In the group of applications before the Hon'ble Apex Court in ***Manik Rama Bodke, deceased through LR's and others vs. State of Maharashtra and another (Civil Appeal No. 523 of 2017)***, the Hon'ble Apex Court disposed of the appeals by order dated 2nd January 2017 directing that 50% of the enhanced compensation granted to the claimants shall be released without security and the balance amount of 50% shall be released on furnishing security to the satisfaction of the Collector. It is to be noted that by order dated 29th April 2022, this Court had appreciated the submissions on behalf of the acquiring body that if the acquiring body succeeds in the appeal

then it would be very difficult to recover the amount from the original claimants. However, after considering the decision by the Apex Court, permission was granted to withdraw the amount.

6. Here in this case also, 50% of the amount was already permitted to be withdrawn. The earlier application for withdrawal of the remaining amount was also rejected by this Court and the applicant had not preferred any appeal challenging the said order. Under such circumstance, we do not find any reason, once again, to allow the applicant to withdraw the remaining 50% amount.

7. The Application stands rejected.

[ABHAY S. WAGHWASE]
JUDGE

[SMT. VIBHA KANKANWADI]
JUDGE