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(Corrected as per Speaking to the Minutes order dated 18.04.2023 in bold)

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

**INTERIM APPLICATION NO. 2286 OF 2023
IN
FIRST APPEAL (ST.) NO. 16886 OF 2019**

Atmaram Narayan Patil (deceased)
Through his LRs Jitendra Atmaram
Patil & Ors. .. Applicants
Vs.
The State of Maharashtra, Through
The Special Land Acquisition Officer ..Respondent

.....
Mr. Sanjay A. Ghaisas for the applicants
Ms. Tanaya Goswami, AGP for the respondent – State
.....

CORAM : PRITHVIRAJ K. CHAVAN, J.

DATED : 30th MARCH, 2023

P.C.

1. This is an application seeking withdrawal of the amount of compensation deposited by the appellant – State pursuant to an award passed by the Reference Court on 24th March, 2017.
2. Heard learned Counsel for the applicants.
3. It is submitted that ever since the land has been acquired by the appellant – State, which was the only source of income of the

applicants through the agricultural income, they are deprived of their livelihood. The amount is required for their day-to-day family expenditure as well as for the medicines and other essential needs. The applicants are said to be facing hardship and loss ever since the land has been acquired.

4. Learned AGP has filed her affidavit-in-reply objecting withdrawal of the entire amount of compensation.

5. At the outset, the appellant - State has already deposited an amount of Rs.2,19,38,528/- by way of demand draft in the Reference Court on 16th November, 2022. **It is submitted that the amount is lying with the Reference Court and the receipt has been forwarded to the Registry of this Court on 22nd February, 2023.**

6. Learned AGP has an apprehension that if the applicants are permitted to withdraw the entire amount of compensation, it would be difficult for the appellant - State to recover the same in case the appeal succeeds. Learned AGP, therefore, submits that unless bank guarantee in respect of 50% of the amount of compensation is obtained from the applicants, withdrawal may not be permitted.

7. Upon this argument, the learned Counsel for the applicants, on instructions, submits that the applicants are ready to furnish the bank guarantee in respect of the entire amount of compensation with accrued interest. Statement is accepted.

8. In view of the above, following order is expedient :-

ORDER

(i) The application is allowed in terms of prayer clause (a) of the application, which reads as under:-

“(a) This Hon’ble Court be pleased to allow the applicants/respondents to withdraw the amount of Rs.2,19,38,528/- (Two Crore Nineteen Lakhs Thirty Eight Thousand Five Hundred Twenty Eight Only) deposited in the Reference Court by the appellant pursuant to order dated 19/07/2022 as passed by this Hon’ble Court.”

(ii) The withdrawal is permitted only after furnishing the bank guarantee of any nationalized bank in the equivalent amount before **the Reference Court**.

(iii) Application stands disposed of.

(PRITHVIRAJ K. CHAVAN, J.)