IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

INTERIM APPLICATION NO.16431 OF 2023
IN
FIRST APPEAL NO.23 OF 2019

Rogation Kanakraj Rubin ...Applicant

In the matter between

The State of Maharashtra ...Appellant
vs.
Rogation Kanakraj Rubin ...Respondent

Mr. Shriram S. Kulkarni for the Applicant.
Mr. A. R. Patil for the Respondent-State.

CORAM : NITIN B. SURYAWANSHI, J.

DATED : 23RD OCTOBER 2023

P. C. :

1. By this Application, Applicant-claimant seeks modification of the order passed by this Court on 8th January 2020.

2. By the said order, Applicant-claimant was permitted to withdraw the entire amount with accrued interest on furnishing bank guarantee of Nationalised bank subject to renewal clause to the satisfaction of the Reference

Court. Applicant, pursuant to said order moved the trial Court requesting to permit him to withdraw 50% amount on furnishing indemnity bond and requested that remaining 50% amount be kept in fixed deposit in the name of Applicant. The said application is rejected and hence, this application.

3. It is case of Applicant that since his entire land is acquired, he is not in a position to furnish bank guarantee. For giving bank guarantee, Applicant will have to pay commission of 5% per annum, which Applicant is not in a position to pay. Applicant is senior citizen aged 75 years and he could not withdraw amount of compensation till date due to said condition.

4. There appears substance in grievance of Applicant that amount of approximately Rs. 2 crores is deposited towards compensation and till date Applicant could not withdraw even part of compensation amount. Appeal is not likely to be heard in near future, therefore, in facts and circumstances of case, Application is allowed as follows :-

(i) Application is allowed.

(ii) Applicant is permitted to withdraw 50% of amount deposited by Appellant on furnishing indemnity bond. Remaining 50% amount shall be deposited in a fixed deposit with renewal clause in Nationalised bank.

[NITIN B. SURYAWANSHI, J.]