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

WRIT PETITION NO.798 OF 2023

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Nirmal Bhogilal & Ors.

... Petitioners

V/s.

The State of Maharashtra, through
the Collector, Raigad, through the
Special Land Acquisition Officer

... Respondent

Mr. Sachin S. Pande for the petitioners.

Mr. S.D. Rayrikar for the respondent/State.

CORAM : AMIT BORKAR, J.

DATED : DECEMBER 12, 2023

PC.:

- 1.** The petitioners are the Trustees of a Public Trust registered under the provisions of the Maharashtra Public Trust Act, 1950.
- 2.** Award under Section 11 was passed in favour of the Trust. The market value of the land on the date of issuance of notification under Section 4 was fixed at Rs.9.64/- per sq. mtr. The petitioners received the amount under protest. However, after decision in Reference under Section 18, the petitioners filed an application under Section 28A of the Land Acquisition Act, 2013.
- 3.** Relying on the judgment of this Court in relation to land acquired under earlier notification in the point of time, the Reference Court awarded market rate at Rs.1,200/- per sq. mtr.

The respondent/State has filed appeal in this Court, which is pending.

4. The respondent deposited enhanced compensation of Rs.12,89,47,909/- before the Reference Court. The petitioners filed an application before the Reference Court for withdrawal of amount of compensation. The Executing Court partly allowed the application for withdrawal of amount permitting petitioners to withdraw 50% of the amount on furnishing indemnity bond and balance 50% amount on furnishing bank guarantee.

5. Clause (3) of the order directing petitioners to furnish bank guarantee for securing balance 50% compensation is the subject matter of present writ petition.

6. According to the petitioners, this Court in relation to land acquired by earlier notification in the point of time had fixed market value at Rs.1,725/- for same Navi Mumbai Project. The acquisition of the petitioners' land was after the judgment of this Court granting compensation at Rs.1,725/- per sq. mtr. Therefore, in my opinion, interest of justice would be served if the withdrawal of amount is secured by furnishing undertaking before this Court. Hence, following order:

a) Clause (3) of order dated 15 September 2023 in Special Execution No.39 of 2021 is modified and substituted as under:

“The Trust of which the petitioners are Trustees is permitted to withdraw balance 50% of the compensation amount on furnishing undertaking by all

Trustees stating that in case the amount of compensation granted by the Reference Court is modified and reduced, they will reimburse the State by depositing differential amount along with interest at the bank rate prevalent at the relevant time within three weeks from such decision.”

- b) Such undertaking shall be filed within four weeks from today;
 - c) On filing such undertaking, the Executing Court shall permit the Trust to withdraw balance amount of 50% of the compensation;
 - d) On compliance of furnishing of undertaking, the office shall send writ of this Court to the Executing Court noting compliance of condition of filing of undertaking.
7. The writ petition stands disposed of in above terms. No costs.

(AMIT BORKAR, J.)