



IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

CIVIL APPLICATION NO. 514 OF 2024 IN
FIRST APPEAL NO. 4719 OF 2017

Nana Kerba Dhangar
(Deceased) through LRs

.. Applicant

Versus

The Executive Engineer,
& others

.. Respondents

Mr. V. V. Ingale, Advocate for the applicant.
Mr. S. V. Hange, AGP for the State.
Mr. R. C. Patil, Advocate for respondent No. 1.

CORAM : R. M. JOSHI, J.

DATE : 17th JANUARY, 2024.

PER COURT :

1. Heard.

2. This application is filed with a prayer to modify clause II of the operative order passed by this Court in Civil Application No. 4496/2018, dated 3rd April, 2018. This Court had allowed the application for withdrawal on furnishing undertaking, 25% amount was allowed to be withdrawn on furnishing bank guarantee of Nationalised bank. The applicant/original claimant expresses that now he is required to deposit 100% amount of the bank guarantee and is also required to pay charges above that amount. He further

submits that because of this condition, though applicant has withdrawn 50% of the amount, she could not withdraw further 25% of the amount. A prayer is therefore made that condition in clause II be modified. Applicant is ready to furnish solvent surety/security for the said amount.

3. Learned counsel Mr. R. C. Patil opposes the said prayer submitting that the Appellate Court while passing the order considered the interest of both the parties. The interest of the acquiring body also needs to be considered and to secure the amount it is necessary to furnish the bank guarantee.

4. Applications filed by similarly placed claimants in the same acquisition proceeding for modification of the order have been allowed by this Court. Hence, this Court finds no reason or justification to take any different view. Considering the submissions, this Court finds that interest of the acquiring body can be taken care by directing the applicant to furnish solvent surety/security in this Court for the said amount. Hence, the following order :

ORDER

- i) Civil application is allowed.

ii) Clause II of the operative order is thus modified as below :

“Rest of 25% amount may be allowed to be withdrawn by applicant on furnishing solvent surety/security to the satisfaction of Registrar (Judicial) of this Court along with accrued interest, if any.”

(R. M. JOSHI)
Judge

dyb