



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

956 WRIT PETITION NO. 146 OF 2023

**AVINASH SHRIRAM GAWDE AND OTHERS
VERSUS
KAUSHALYABAI SUDAMRAO BHARNE AND OTHERS**

...
Advocate for the petitioners : Mr.T.M.Venjane
Advocate for Respondent no.1 : Mr.R.V.Gore
Advocate for the respondent nos. 2 and 3 : Mr.V.B.Jagtap

...
CORAM : ARUN R. PEDNEKER, J.

DATE : 20.08.2024

P.C. :

1] By the present petition, the petitioners challenge the order dated 14.12.2022 passed by the Reference Court in LAR No.78/2019, permitting the parties before the Reference Court in withdrawing the amount as granted under the Land Acquisition Act.

2] Heard the learned counsel for the petitioners. The learned counsel for the petitioners submits that the suit for partition is pending between the parties and that it is possible that in the partition suit, they may get share in the suit property.

3] It is to be noted that before the Reference Court the petitioners were not party, so also, the Reference Court has granted compensation of Rs.67,28,841/- to the claimants. In the event, the petitioners succeed in the partition suit and the petitioners are held to be entitled to share in the amount received from the acquired land, the petitioners can recover the same in execution of the partition decree. The recipient of the compensation under the Land Acquisition Act has to repay the excess amount received by him in view of the proviso to Section 31(2) of the Land Acquisition Act, to the person lawfully entitled thereto.

4] In view of the same, the present petition is disposed of, by permitting the claimants to withdraw the amount as permitted by the Reference Court. However, the claimants would give an undertaking to the Reference Court that in the event it is found that the claimants have taken money more than their share, as determined in the partition

suit between the parties, the claimants would repay the additional amount, withdrawn by them, with interest @ Rs.6% per annum and the said amount would be deposited before the Civil Court where the partition suit is pending.

5] With the above observations, the Writ Petition stands disposed. Pending Civil Application, if any, is also disposed of as not pressed.

[ARUN R. PEDNEKER]
JUDGE

DDC