



IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

19 CIVIL APPLICATION NO. 5175 OF 2024
IN FA/2511/2021

LAXMAN IRANNA AND ANR
VERSUS
THE STATE OF MAHARASHTRA THR THE COLLECTOR,
NANDED AND ORS

...
Advocate for Applicants : Mr. Katneshwarkar P. R.
AGP for Respondents/State : Mr.A.M. Phule
...

CORAM : KISHORE C. SANT, J.

DATE : 15th JULY, 2024.

PER COURT :

1. Heard.
2. This application is for withdrawal of the amount deposited by the State in the First Appeal as condition for grant of stay and pursuant to the directions of this Court.
3. Learned Advocate Mr. Katneshwarkar submits that this Court initially had granted stay subject to deposit of 40% of

the amount of compensation by order dated 09.10.2020.

4. In similar matter which was before the Division Bench. The Division Bench by order dated 08.10.2020 had directed the appellant to deposit the entire amount as per the award. The Division Bench thereafter passed an order directing the applicant therein to withdraw 25% of the amount deposited in that appeal on usual undertaking that the applicant shall re-deposit the amount with accrued interest if appeal is allowed.

5. He further points out that the applicants therein approached the Hon'ble Supreme Court. There the Hon'ble Supreme Court permitted the applicants to withdraw 75% of the amount. 50% of the said amount without furnishing surety and rest of 50% of the amount by furnishing surety to the satisfaction of the learned Reference Court.

6. He further points out that after the Division bench's order, the present applicants filed the Civil Application no. 5393 of 2021 seeking direction to the State to deposit the remaining amount and or for vacating the interim relief.

7. This Court by order dated 13.03.2023 directed to deposit 35% of the entire compensation to make total deposit of 75% of the entire amount of compensation by order dated 13.03.2023.

8. Thereafter this Court again passed an order dated 07.08.2023 vacating interim relief in case the Acquiring Body fails to deposit the amount as per order dated 13.03.2023.

9. In view of these orders now the amount is deposited in the Reference Court.

10. Now the present application is for withdrawal of the amount of 35%, as earlier 40% of the amount deposited has already been withdrawn.

11. The present application is vehemently opposed by the learned AGP. He submits that in the reference, the Reference Court has enhanced the amount by about 26 times i.e. more than what was granted by the learned SLAO.

12. The SLAO had awarded the amount @ 2500 per R and the same is enhanced to Rs. 1,02,375 per R. The land is situated in village Karla, Tq. Biloli. Considering that it is a small village, the amount of more than Rs. 1,00,000/- is exorbitant. When 40% of the amount is already withdrawn the 35% of the amount needs to be kept intact as even 35% is a huge amount.

13. This Court considered the submissions & finds substance in the submissions of Mr. Katneshwarkar that the Hon'ble Supreme Court in another matter arising out of the same acquiring proceeding has allowed the Claimants therein to withdraw 75% of the amount on certain conditions, it would be proper to allow the applicants also to withdraw equal percentage of the amount. Hence the following order :

ORDER

- a) The application stands allowed and disposed off.
- b) The applicants are permitted to withdraw 35% of the total amount of the enhanced award

by filing surety to the satisfaction of the learned Reference Court.

c) The applicants are permitted to withdraw the amount presently lying in the Reference Court (i.e. 35% of the total amount) along with accrued interest by furnishing surety to the satisfaction of the Reference Court in proportionate to which they are entitled to it.

**(KISHORE C. SANT)
JUDGE**

mahajansb/