



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CIVIL APPLICATION NO. 2077 OF 2024
IN FA/2945/2022

MURLIDHAR GUNDAJI CHITTE

VERSUS

THE EXE. ENGINEER, STRENGTHENING DIV., OMERGA M.K.V.D.C. AND ANR

Mr.L.C. Patil, Advocate for the applicant.

Mr.A.S.Shelke, Advocate for respondent No.1.

Mr.V.M. Chate, AGP for the respondent/State.

CORAM : KISHORE C. SANT, J.

DATED : 19.06.2024

PC :-

01. This application is filed for withdrawal of the amount. The learned Advocate for the applicant has produced on record a copy of order dated 09.03.2023 passed in similar matter arising out of the same acquisition proceeding, wherein this Court has permitted to withdraw 75% of the amount on certain conditions.

02. This application is opposed by the learned Advocate Mr. Shelke for the acquiring body. He submits that if the applicant is allowed to withdraw, it would be difficult to recover the amount in case the appeal is allowed. Though there is no question of compensation towards fruit bearing trees, however, this order cannot affect fate of other applications, wherein the appeals are arising in which ground is taken in respect of compensation granted for fruit bearing trees also.

03. This Court finds that it is open for him to agitate this point when other applications would come up for consideration before this Court. For the present this Court is only considering the fact that the Reference Court has awarded enhancement in the compensation. There is already award in favour of the claimant. It would not be in the interest of any of the parties to keep this amount idle in the Court. Hence, following order :-

ORDER

- (i) The application is allowed.
- (ii) The applicant is permitted to withdraw 75% of the amount deposited by the acquiring body in this Court along with accrued interest with following conditions.
- (iii) 50% of the deposited amount is permitted to be withdrawn on furnishing usual undertaking and 25% of the deposited amount is permitted to be withdrawn on furnishing solvent surety/security to the satisfaction of the Registrar (Judicial) of this Court. Remaining 25% of the deposited amount shall be invested in the fixed deposit of any nationalized bank to be renewed periodically till disposal of the appeal.

[KISHORE C. SANT, J.]