

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

INTERIM APPLICATION NO. 10612 OF 2024.

IN

FIRST APPEAL NO. 289 OF 2022.

Late Vitthal Govind Patil
Since deceased Thr. Lrs. And Ors.

...Applicants.

IN THE MATTER BETWEEN

The State of Maharashtra

... Appellant

Versus

Late. Vitthal Govind Patil
Since deceased Thr. Lrs. And Ors.

...Respondents.

Mr. A. R. Patil AGP for the Appellant-State.

Mr. Hemant Ghadigaonkar for the Respondent Nos. 1 to 5 and 7 to 9.

Coram : Sharmila U. Deshmukh, J.

Date : October 4, 2024.

P. C. :

1. By this Interim Application the Applicants who are Original Claimants seek permission to withdraw the balance amount which remains deposited, by permitting 25% to be withdrawn unconditionally and 50% with Bank guarantee or any other form of security.

2. Learned Counsel appearing for the Applicants submits that 25% of the compensation was already permitted to be withdrawn and now the balance 25% is sought to be withdrawn unconditionally and

the remaining 50% by furnishing Bank guarantee or any other form of security.

3. In support, he relied upon various decisions of this Court and the Apex Court which has permitted such course in case of land acquisition proceeding.

4. Mr. Patil learned AGP appearing for the Appellant-State does not seriously oppose the Application as the same course has been adopted in the earlier orders.

5. The Applicants are the Original Claimants in whose favour the Award has been passed and has been stayed by this Court subject to deposit of the amount and it is unlikely that the Appeal which is of the year 2022 will be taken up for final hearing immediately.

6. In my view the Applicants/Original Claimants can be permitted to withdraw 25% of the balance remaining, after the withdrawal of the earlier 25%, unconditionally. As regards 50% remaining amount the Applicants/Original Claimants are permitted to withdraw the same by furnishing Bank guarantee or solvent security to the satisfaction of the Reference Court. The Reference Court to give an opportunity of hearing to the State before passing an order.

7. Interim Application stands allowed.

8. 25% amount which is permitted to be withdrawn unconditionally is subject to furnishing usual undertaking to bring back

the said amount, if so ordered by the Court along with reasonable interest, if directed.

[Sharmila U. Deshmukh, J.]