

HARSHADA H. SAWANT
(P.A.)

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.9483 OF 2024

Rahul Ganpat Shinde and Ors.

.. Petitioners

Versus

Land Acquisition Officer and Anr.

.. Respondents

-
- Mr. Balasaheb Deshmukh, Advocate for Petitioners.
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CORAM : MILIND N. JADHAV, J.

DATE : JULY 09, 2024

P.C.:

- 1.** Mentioned. Not on Board. Taken on Board.
- 2.** Heard Mr. Deshmukh, learned Advocate for Petitioners.
- 3.** Perused the praecipe dated 09.07.2024 and the Writ Petition.
- 4.** The Writ Petition assails the order dated 20.09.2022 which is appended at page No.50, Exhibit-K to the Writ Petition whereby Miscellaneous Civil Application No.108 of 2022 filed by the Decree Holders seeking withdrawal of monies deposited in the Executing Court in Land Acquisition Reference is rejected.
- 5.** In support of his submissions, he would draw my attention to the order passed on 21.07.2016 in a similar case whereby his co-claimant brother had made a similar Application which stood rejected by the Reference Court on the same ground, but when he approached

this Court, this Court relaxed the condition of bank guarantee and in fact substituted the same by stating that the Claimant furnish security to the satisfaction of the concerned Court and the SLAO / State would be heard by the concerned Court prior to accepting the said security.

6. He would therefore urge that an identical order be passed so that atleast the condition of furnishing the bank guarantee is done away with and the Writ Petitioners – Claimants shall be able to furnish an appropriate security to the satisfaction of the Trial Court. After perusing the pleadings and the impugned order, a *prima facie* case is made out by Mr. Deshmukh for consideration.

7. In that view of the matter, issue notice to the Respondents. Humdast permitted. In addition to Court's notice, Advocate for Petitioners is directed to serve the Respondents a copy of this order and copy of the Writ Petition immediately and inform them about the next date of hearing by any permissible mode of service and file appropriate affidavit of service with tangible proof thereof so as to enable this Court to pass appropriate orders. Respondents are directed to file Affidavit-in-Reply to the Writ Petition on or before the next date.

8. Learned AGP shall take appropriate instructions and also consider the previous order passed by this Court dated 21.07.2016 which is appended at Exhibit-E, page No.48 of the Writ Petition. I propose to pass an identical order in this matter also subject to hearing the concerned

learned AGP on behalf of Respondents.

9. Stand over to **16th July, 2024.** To be placed under the caption 'For Orders'.

H. H. SAWANT

[MILIND N. JADHAV, J.]

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by HARSHADA
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