



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

**CIVIL APPLICATION NO.3455 OF 2025
IN
FIRST APPEAL (STAMP) NO.9276 OF 2023**

**RAMESHWAR UTTAMRAO THOMBRE AND OTHERS
VERSUS
THE STATE OF MAHARASHTRA AND ANOTHER.**

...
Shri Ajeet B. Kale, Advocate for the Applicants.
Shri S.N. Kendre, AGP for Respondent No.1/State.
Shri S.G. Bhalerao, Advocate for Respondent No.2.
...

CORAM : PRAFULLA S. KHUBALKAR, J.

DATE : 02nd July, 2025

Per Court :-

1. The applicants (original claimants) have preferred this application for withdrawal of entire amount deposited by the appellant/acquiring body towards land acquisition compensation as per the award passed by the Court of Civil Judge, Senior Division, Jalna in Land Acquisition Reference No. 328 of 2014.

2. Pursuant to the directions given by this Court, the appellant/acquiring body has deposited entire amount of compensation with this Court. Learned counsel for the applicants

would submit that in other appeals arising out of the same acquisition proceedings, the claimants therein have been permitted to withdraw 100% amount deposited by the acquiring body. He places on record copies of the orders dated 19th June, 2023 passed by learned Single Judge in Civil Application No. 7210 of 2023 in First Appeal No. 861 of 2023 and dated 10th October, 2023 passed in Civil Application No.10384 of 2023 in First Appeal No. 2751 of 2023 with connected applications.

3. Shri Kale, learned advocate for the applicants/ claimants, vehemently submits that the applicants be permitted to withdraw the entire amount.

4. Shri Bhalerao, learned advocate for respondent No.2/ acquiring body, has strong objection to allow the application. According to him, interest under Section 28 of the Land Acquisition Act has been awarded from the date of taking possession of the land. According to him, it should have been from the date of award. The period for which excess interest has been granted is of two years. He would further submit that the compensation has been awarded for the land and the trees standing thereon separately. The same is not permissible.

5. Learned advocate Shri Bhalerao further submits that the Division Bench of this Court has passed the order dated 12.04.2024 on Civil Application No.2773/2024 in First Appeal No.2577/2023 and dealing with identical fact situation, has permitted the applicants to withdraw 80% of the amount deposited by the acquiring body along with interest accrued thereon till date. It is specifically pointed out that the Division Bench has also taken into consideration the order dated 10.10.2023 passed in Civil Application No.10384/2023 in First Appeal No.2751/2023 with connected applications, on which learned counsel for the applicants/ claimants has placed heavy reliance. Shri Bhalerao, therefore, submits that the after considering the order passed by the learned Single Judge, the Division Bench has passed the order by which, the applicants are permitted to withdraw only 80% of the amount deposited by the acquiring body. Attention of this Court is invited to the order dated 11.10.2024 passed by the Division Bench in Civil Application No.10868/2024 in First Appeal No.2577/2023 by which, the order dated 12.04.2024 was modified by permitting the claimants to withdraw the amount only on the basis of an undertaking instead of furnishing solvency/ surety.

6. Having regard to the contentions advanced by both the parties and in view of the order dated 12.04.2024, which is modified by the order dated 11.10.2024, the instant application needs to be allowed. Considering the fact that in the instant case, interest has been awarded from the date of taking possession of the land and the amount sought to be withdrawn is huge, the applicants/ claimants can be allowed to withdraw 80% of the amount.

7. In view of the above, the applicants/ claimants are allowed to withdraw 80% of the amount deposited by the acquiring body along with interest accrued thereon till date, by furnishing an undertaking to the learned Registrar (Judicial) of this Court that in case the First Appeal is decided and the amount is required to be refunded, the applicants/ claimants will deposit the amount immediately. This Civil Application is disposed of.