



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

931 CIVIL APPLICATION NO. 7776 OF 2025
IN FA/1868/2019

Shekhar Sharanyya Swami

....Applicant

VERSUS

The State of Maharashtra

Through the Collector Osmanabad And Ors.

.....Respondents

.....

Mr. Patil Laxmikant C., Advocate for the Applicant

Ms. M. L. Sangit, AGP for Respondent Nos.1 and 2

Mr. Avishkar S. Shelke, Advocate for Respondent No.3 – Acquiring Body

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CORAM : NEERAJ P. DHOTE, J.

DATE : 04.11.2025

PER COURT :

1. This is an Application for withdrawal of the entire amount along the interest accrued thereon, deposited by the Acquiring Body in this Court in First Appeal No.1868/2019.

2. Heard the learned Advocate for the Applicant / Claimant, the AGP for Respondent Nos.1 and 2 and the learned Advocate for Respondent No.3 - Acquiring Body.

3. The learned Advocate for the Applicant / Claimant relied on the order dated 12/09/2025, passed by this Court in Civil Application No.7775/2025 in First Appeal No.1867/2019 and other Applications in

connected Appeals in support of this Application. By the said order, this Court permitted withdrawal of 60% of the amount deposited by the Acquiring Body, out of which 90% amount was permitted to be withdrawn on furnishing regular undertaking and 10% amount on furnishing solvent surety / security.

4. The learned Advocate for the Acquiring Body invites my attention to the order dated 16/10/2025, passed in Civil Application No.9955/2021 in this very Appeal, which was filed by a third person, who was the brother of Applicant. The said Application was for impleadment in the First Appeal. In the said order, the relevant Paragraphs i.e. Paragraph Nos.5, 6, 7 and 10 are reproduced here :

“5. I have considered rival submissions of the parties. There is no dispute that Sharanayya, father of the applicant and the respondent No. 2 was owner of the land in question. After his demise on 29.09.2009 his interest normally would devolve upon the heirs. Heirship certificate would indicate that there are other heirs also. Sharanayya had initiated proceedings on the basis of which reference was registered on 28.11.2011. After him reference could have been prosecuted by the applicant along with the respondent No. 2. The agreement dated 19.06.2025 shows the consensus to share compensation amount.

6. However, at the same time it cannot be lost sight that no steps were taken by the applicant when the matter was pending before the Reference Court. It is rightly contended by the learned counsel for the respondent No. 2 that after demise of father reference was pending till 2015. He could have taken steps for impleading him from 2009 till this date. The matter was in the High Court from year 2019. During this period also no application is made by the applicant. The applicant could

have resorted to the remedy of Sec. 30 of the L. A. Act.

7. Though relationship is not disputed, at this juncture it is difficult to determine the exact interest of the applicant. There are disputed questions of facts, which cannot be gone into for the first time when statutory remedy is not availed of by the applicant. Just because ostensibly party is necessary party, application U/O I Rule 10 of the C. P. C. cannot be entertained. It would be open for the applicant to resort to appropriate remedy for asserting his right even to the extent of amount of compensation which is monetary claim.

10. The civil application is rejected. However, it is made clear that the applicant or the private respondent will be at liberty to take recourse to the remedy as is permissible in law.”

5. The learned Advocate for the Applicant / Claimant undertakes to file an appropriate undertaking from the Applicant to the effect that, he will pay the amount to his brother if he claims a share and the same is decided. This is an Appeal by the Acquiring Body against the enhancement granted by the learned Reference Court. In identical Appeals, this Court has permitted withdrawal of 60% of the amount. In this view of the matter, I proceed to pass the following order :

ORDER

[I] The Application is partly allowed.

[II] The Applicant is permitted to withdraw 60% of the amount deposited in this Court along with accrued interest thereon. Out of the said 60% amount, 90% amount along with accrued interest thereon is permitted to be withdrawn on furnishing undertaking and 10% amount along with accrued interest thereon is permitted to be withdrawn on furnishing solvent security / surety to the satisfaction of the learned Registrar (Judicial) of this Court.

[III] Remaining 40% amount to be deposited in Fixed Deposit in any Nationalized bank, initially for the period of one year and thereafter, it be renewed time to time.

[IV] The above withdrawal is permitted subject to filing an appropriate undertaking on the affidavit by the Applicant before the Registrar [Judicial] of this Court that, the Applicant will part with the amount permitted to be withdrawn with his brother towards his share.

[V] Application stands disposed off accordingly.

[NEERAJ P. DHOTE, J.]

Sameer/November-2025