



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

**CIVIL APPLICATION NO. 10822 OF 2025
IN
FIRST APPEAL NO. 1346 OF 2022**

Muktabai Sakharam Gore .. Applicant

Versus

Halimabi Shaikh Kareem and others .. Respondents

Shri Manoj D. Shinde, Advocate h/f Ms. Savita P. Kakde
(Matkar), Advocate for the Applicant.

Shri Shivaji B. Bhapkar, Advocate for the Respondent No. 2.

**CORAM : SHAILESH P. BRAHME, J.
DATE : 11TH DECEMBER, 2025.**

FINAL ORDER :

. Heard both sides.

2. Applicant seeks to withdraw amount of Rs. 45,44,800/- deposited before the Reference Court in L. A. R. No. 82 of 2016. She is the respondent No. 3 in First Appeal No. 1346 of 2022 preferred against the judgment and award passed in L. A. R. No. 82 of 2016 by the respondent No. 2.

3. The acquisition of 80R of land from gut No. 105 was for the purpose of Bidkin Industrial area under Maharashtra Industrial Development Corporation Act of 1961. A dispute cropped up regarding entitlement to compensation and the matter was

referred to the Reference Court. Present applicant and the respondents have rival claim to the compensation. By award under question it was held that the respondent No. 6 – Shaikh Harun Shaikh Majeed should be paid Rs. 55,10,570/- and the present applicant should be paid an amount of Rs. 45,44,800/- with accrued interest and other benefits. The respondent No. 2 preferred first appeal along with application for stay. The execution of the award is stayed.

4. Acquiring body deposited the amount of compensation with accrued interest before the Reference Court. The respondent No. 6 – Shaikh Harun Shaikh Majeed withdrew amount of Rs. 55,10,570/- from the Reference Court as there was no stay operating as against him. At the relevant time no cross objection or cross appeal was preferred by the applicant. Later on cross objection is filed by the present applicant in High Court.

5. In the backdrop of above facts, applicant is seeking withdrawal of amount of Rs. 45,44,800/- from the Reference Court. It is contended that the land under acquisition was purchased by her vide registered sale deed dated 29.03.1996 from Shaikh Majeed Shaikh Rasul. She was owner of the land under acquisition and entitled to the compensation. The sale transaction of 27.07.2001 between the original owner and the respondent No. 2 has nothing to do with the title and acquisition of the land.

6. Learned counsel for the applicant submits that a bogus sale transaction was shown on 27.11.2000 reconveying the land under question by the applicant to the original owner. It was found that the real registered transaction of 27.11.2000 was between Ashok Jandrabhan Kalaskar and Baban Bhagaji Hiwale and that was in respect of different land. First information report bearing No. 145/2015 was also filed with Paithan Police Station against the respondent No. 2 – Tamijbee and her husband - the respondent No. 3.

7. Learned counsel Mr. Shinde for the applicant has referred to the findings recorded by the Reference Court in the impugned judgment to show mischief of the respondent Nos. 2 and 3 in grabbing the amount. It is further submitted that the present first appeal has been prosecuted by the respondent No. 2 and respondent Nos. 1, 3, 4 to 7 have been deleted by her. It is further submitted that a statement was made across the bar on previous hearing of the application that applicant was no more and his client was required to remain present and to prove that she is alive.

8. Per contra, learned counsel Mr. S. B. Bhapkar appearing for the respondent No. 2 – Tamijbee objects the present application by raising preliminary objection regarding maintainability. It is contended that neither general power of attorney, nor any vakalatnama was filed on record. He would advert my attention to the order passed by this Court on 15th

October, 2025. It is submitted that applicant has no title and interest to receive the amount. It is submitted that the amount withdrawn by Shaikh Harun was in respect of acquisition of 97 R of the land which is part and parcel of gut No. 107. He would submit that cross objection was filed belatedly and to overcome the situation.

9. Learned counsel Mr. Shinde while replying the preliminary objection adverted my attention to the fact that general power of attorney and vakalatnama are filed on record on 06.11.2025. I am shown the documents of aadhar card to show the identification of his client. I have gone through the documents referred above.

10. Previous orders passed in this application reveal that a candid statement was made by Mr. Bhapkar on instructions of his client, who was present in the Court that applicant passed away. She was required to remain present along with document of aadhar card. Thereafter, not only GPA of Mr. Deepak Dnyando Thokal, but vakalatnama has also been filed. The technical objection raised by the respondent No. 2 has been adequately satisfied.

11. This Court cannot be oblivious of the observations recorded by the Reference Court that a foul play was played by showing that reconveyance was executed by the applicant on 27.11.2000. Thereafter first information report was lodged against the

respondent No. 2 and her husband, which culminated into charge sheet. An endeavour to delete other persons from the appeal has also relevance. The possibility of collusion amongst the respondent No. 2 and deleted respondents cannot be ruled out. The overt act of the respondent No. 2 and her husband respondent No. 3 is apparent on record.

12. Considering over all circumstances, this Court is of the view that the respondent No. 2 has made every endeavour to create hurdle in the way of the applicant to receive the amount. She even dared to instruct her lawyer that applicant passed away. Her conduct is objectionable.

13. Applicant is entitled to receive the amount. The civil application is allowed in terms of prayer clause 'B'. The amount shall be disbursed to the applicant on submitting her undertaking to the satisfaction of the Reference Court.

14. Learned counsel for the respondent No. 2 seeks stay to the operation of the present order as his client is desirous of approaching the Hon'ble Apex Court.

15. Learned counsel for the applicant has serious objection for the submissions made by Mr. Bhapkar for stay. It is submitted that stay is not in operation as on today. It is further submitted that fraud is played by the respondent No. 2 and her husband and it is not a case to exercise any discretion in their favour.

16. I have already recorded the conduct of the respondent Nos. 2 and 3. The applicant is present today also. She is aged lady. I am not inclined to accept the request. The request for stay of this order is rejected.

[SHAILESH P. BRAHME J.]

bsb/Dec. 25