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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

**930 CIVIL APPLICATION NO. 7775 OF 2025
IN FA/1867/2019**

BABU @ KARBAS HALLAYA SWAMI

VERSUS

THE STATE OF MAHARASHTRA THROUGH THE COLLECTOR
OSMANABAD AND OTHERS

...

Advocate for Applicant : Mr. Laxmikant C. Patil

AGP for Respondent-State : Mr. D. R. Korade

Advocate for Respondent No.3 Acquiring Body : Mr. A. S. Shelke

...

WITH

CIVIL APPLICATION NO. 9955 OF 2021 IN FA/1868/2019

BASAVRAJ S/O SHARNAYYA SWAMI

VERSUS

THE EXECUTIVE ENGINEER, PATBANDHARE MAJBUTIKARAN
DIVISION, OMERGA, DISTRICT OSMANABAD AND OTHERS

...

Advocate for Applicant : Mr. V. D. Hon, Senior Advocate i/by Mr. V.
B. Jadhav

Advocate for Respondent No.1 : Mr. A. S. Shelke

Advocate for Respondent No. 2 : Mr. Laxmikant C. Patil

AGP for Respondent-State : Mr. D. R. Korade

...

WITH

CIVIL APPLICATION NO. 6190 OF 2022 IN FA/1867/2019

THE EXECUTIVE ENGINEER, PATBANDHARE MAJBUTIKARAN
DIVISION, OMERGA

VERSUS

BABU @ KARBAS HALLAYA SWAMI AND OTHERS

...

Advocate for Applicant : Mr. A. S. Shelke

Advocate for Respondent No.1 : Mr. Laxmikant C. Patil

AGP for Respondent-State : Mr. D. R. Korade

...

CORAM : ABHAY S. WAGHWASE, J.

DATED : 12 SEPTEMBER 2025

PER COURT :-

CIVIL APPLICATION NO. 6190 of 2025

1. This application is filed by the acquiring body praying modification of the interim order dated 19.06.2019 passed in Civil Application No. 14366 of 2018 to the extent of deposit of entire decretal amount as a condition for grant of stay to the execution and implementation of the Award dated 05.02.2015 in LAR No. 399/2013.

2. Learned counsel for the applicant submits that, entire amount being deposited, this application deserves to be disposed off.

3. In view of the above, Civil Application No. 6190 of 2022 stands disposed off.

CIVIL APPLICATION NO. 9955 of 2021

4. This Civil Application is filed seeking directions to the appellant acquiring body to add the applicant as party respondent in the First Appeal.

5. Learned counsel Mr. Patil seeks time to file reply.
6. Stand over to 26.09.2025.

CIVIL APPLICATION NO. 7775 OF 2025 (for withdrawal of amount)

7. Heard both sides.
8. Learned counsel for the applicant pointed out that the applicant's land was acquired on 26.06.2001 i.e. on issuance of Notification under Section 4 of the Land Acquisition Act (for short, "the Act") that, since said date, applicant has not yet received any compensation awarded therein. It is pointed out that the order of the Reference Court has been taken exception to by the respondent acquiring body. It is further pointed out that in the said Appeal, the acquiring body was ordered to deposit entire amount of award. Accordingly, said amount is deposited. It is further pointed out that this Court had already granted withdrawal in connected matters to the extent of 60% deposited amount, i.e. 90% amount out of 60% deposited amount on furnishing undertaking and remaining 10% amount on furnishing solvent surety. Learned counsel pointed out that, copy of said order is already placed on record i.e. order dated

14.10.2022 passed in Civil Application No. 13688 of 2022 in First Appeal Stamp No. 21605 of 2020, and he seeks similar treatment in present application.

9. Learned counsel for the respondent acquiring body has registered strong objection on the ground that exorbitant amount has been awarded by the Reference Court, that too, in absence of any cogent, reliable and legally acceptable evidence. That, therefore acquiring has taken exception to the said order of Reference Court by filing appeal. However, learned counsel for respondent points out that this Court in connected matters has indeed allowed withdrawal of 90% amount out of 60% deposited amount by way of undertaking and remaining 10% out of 60% deposited amount is allowed to be withdrawn on furnishing solvent surety. However, lastly he submits that no case has been made out for grant of similar benefits.

10. Learned counsel for the present applicant also seeks directions of this Court against the respondent acquiring body to deposit remaining 40% amount awarded by the Reference Court.

11. On going through the record, there does seem to be no dispute that the land of the applicant has been acquired for the purpose of

storage tank. Against the award passed by the Special Land Acquisition Officer, Reference seems to have been made and the same has been decided by judgment and order dated 05.02.2015. Record further goes to show that, aggrieved by grant of compensation at the hands of the Reference Court, the acquiring body seems to have filed appeal and the same is pending. Considering the year of Notification under Section 4 of the Act, i.e. 2001, more than 24 years have lapsed since the applicant has lost his land. Therefore, there is reason to hold that his source of income has been reduced. There is no dispute about acquiring body depositing entire decretal amount in this Court in view of order dated 19.06.2019. Copy of order passed in similar application for withdrawal of amount is placed on record which is dated 14.10.2022 and the same goes to show that 90% of the 60% amount deposited in this Court is permitted to be withdrawn on furnishing undertaking to the satisfaction of the Registrar (Judicial) and remaining 10% is permitted to be withdrawn on furnishing solvent surety/security. Therefore, applying the similar standards and conditions, the present application also deserves to be disposed off. Hence, following order is passed :

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 before the learned Registrar (Judicial).

III. The applicant is permitted to withdraw remaining 10% amount out of 60% of the deposited amount, along with accrued interest thereon, on furnishing solvent surety/security.

IV. 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.

V. The application is accordingly disposed off.

[ABHAY S. WAGHWASE, J.]