

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

**929 CIVIL APPLICATION NO. 13565 OF 2023
IN FA/1063/2019**

Kisan Deorao Dete (deceased), Prakash Prechanda Dete
VERSUS

The Exe. Engineer, Beed Irrigation Div. Head Quarter, Ambajogai, Beed
And Anr

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Mr. Santosh Sampatrao Jadhavar - Advocate for Applicants

Mr. R. B. Dhaware - AGP for Respondent/State

Mr. M.C. Swami – Advocate for Respondent No. 1

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CORAM : NEERAJ P. DHOTE, J.

DATED : 22ND APRIL 2025

PER COURT : -

1. This is an Application by the Original Claimants / Respondents in the Appeal, for withdrawal of remaining amount deposited by the Acquiring Body in this Court.

2. It is submitted by the learned Advocate for the Applicants that, against the Judgment and Award passed by the learned Reference Court, the Acquiring Body has preferred an Appeal. He has invited attention of this Court to the Judgment and Award passed in the connected matters arising out of the same acquisition. The Acquiring Body has deposited 50% amount under the Award. He submits that, the 50% amount comes to Rs.46,46,386/-. The Applicants have initially

approached this Court and they were permitted to withdraw an amount of Rs.20,51,237/- by orders dated 11.10.2019 and 28.06.2022. He submits that, now the Applicants have approached this Court for withdrawal of remaining 25% amount. He submits that the Application be allowed.

3. The Application is opposed by the learned Advocate for the Acquiring Body. He submits that, this Court has, while allowing the Civil Application Nos. 11519 of 2021 in First Appeal No. 1061 of 2019 and connected Applications for withdrawal of amount, observed that the Applicants shall not file any further Application for withdrawal of the amount. He submits that, the enhancement by the learned Reference Court is exorbitant. He submits that the Application be rejected.

4. There is no dispute that the Acquiring Body has deposited only 50% amount of the total amount awarded by the learned Reference Court under the Award. In Paragraph No. 07-A, Page No. 5-A to the Application, the figures are mentioned to show the amount deposited by the Acquiring Body, the amount withdrawn by the Applicants and the amount remaining. The said paragraph is reproduced as under : -

“07-A) Applicants submit that, respondent No.1 has initially deposited an amount of Rs.29,40,860/- in this Hon’ble Court and lateron has deposited an amount of Rs.17,05,526/-. As such total amount of Rs.46,46,386 is deposited by respondent No.1. Out of deposited amount, applicants have withdrawn amount of Rs.20,51,237/- in view of orders dated 11.10.2019 and 28.06.2022 passed

by this Hon'ble Court. Now total amount lying in this court is of Rs.25,95,149/-."

5. I see no impediment to allow the Applicants to withdraw the remaining amount deposited by the Acquiring Body, subject to furnishing Solvent Surety / Security / Bank Guarantee against the said amount to the satisfaction of the Registrar (Judicial) of this Court so that the interest of Appellant i.e. Acquiring Body, is protected till the decision of Appeal. It is made clear that, no request from the Claimants/Applicants to release or replace the Solvent Surety / Security / Bank Guarantee will be entertained till the final disposal of the Appeal. Hence, the following order : -

ORDER

- [i] The Applicants are allowed to withdraw the remaining amount deposited by the Acquiring Body along with interest accrued thereon, subject to furnishing Solvent Surety / Security / Bank Guarantee against the said amount to the satisfaction of the Registrar (Judicial) of this Court, which shall be operative till the Appeal is finally disposed off.
- [ii] The Application stands disposed off.

[NEERAJ P. DHOTE]
JUDGE