



31A-CA9599.2025.odt

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

958 CIVIL APPLICATION NO. 9599 OF 2025
IN FA/290/2024

Latabai W/o Vijay Phutane
VERSUS
The State Of Maharashtra And Ors

Mr.L.C.Patil, Advocate for applicant
Mr.S.S.Dande, AGP for respondent nos.1 and 2
Mr.A.M.Gaikwad, Advocate for respondent no.3

WITH
**CIVIL APPLICATION NO. 14314 OF 2023
IN FA/290/2024**

CORAM : AJIT B. KADETHANKAR, J.
DATE : SEPTEMBER 09, 2025

ORDER :-

Heard Mr.L.C.Patil, learned counsel for the applicant/claimant and Mr.A.M.Gaikwad, learned counsel for respondent-acquiring body.

2. Mr.Patil, learned counsel for the applicant, submits that as against the judgment and award dated 31.08.2016, passed in LAR No.293 of 2024, by learned Civil Judge Senior Division, Osmanabad, the acquiring body has filed First Appeal. While securing the order of stay to the execution and operation of the judgment and award, the

acquiring body has deposited the entire amount in this Court. Contending that the applicants have lost their livelihood and source of income, the applicants seeks withdrawal of the entire award amount. Mr.Patil tenders on record two orders passed by the coordinate bench of this Court, i.e. (i) order dated 21.06.2018 in Civil Application No.6992 of 2018 (Mahadeo Bhaskar Shinde Vs. The Executive Engineer, Irrigation Project Strengthening Divn, Omerga and ors) and connected matters; and (ii) order dated 05.08.2025 in Civil Application no. 6030 Of 2025 in First Appeal No.2174 of 2016 (Kamalbai Vasudeo Fund And Ors Versus The State Of Maharashtra Through The Collector, Osmanabad). Placing reliance on both the orders, he submits that while passing these orders, the entire amount deposited by the appellant/acquiring body has been permitted to be withdrawn by this Court to the applicants therein. He further submits that the appeal and application (supra) arise out of the same LAR and even, the award is same, which is under challenge in the present appeal. With this, on the principle or parity, Mr.Patil seeks withdrawal of entire amount deposited in this court by the acquiring body with interest accrued thereon.

3. Mr.Gaikwad, learned counsel for the acquiring body, gracious agrees with the contentions and submissions advances by

Mr.Patil, learned counsel for the applicants.

4. In view of the above, I have no hesitation to allow the applicant to withdraw the entire amount deposited by the acquiring body in this court.

5. The Civil Application is, thus, allowed. The applicants are permitted to withdraw 50% of the amount deposited by the acquiring body with interest accrued thereon, subject to furnishing usual undertaking to this Court; and further 50% amount deposited by the acquiring body with interest accrued thereon, on furnishing solvent security to the satisfaction of learned Registrar (Judicial) of this Court. The Civil Application stands disposed of.

Application for Stay :-

6. Heard.

7. The First Appeal has been filed against judgment and award dated 31.08.2016, passed in LAR No.293 of 2024, by learned Civil Judge Senior Division, Osmanabad. Mr.Gaikwad, learned counsel for acquiring body submits that the entire payable award amount has been deposited in this Court. Mr.Patil, learned counsel

for the claimants, also approves the contention of Mr.Gaikwad, learned counsel and confirms such deposit made. Hence, stay granted earlier to the execution and operation of the impugned award is made absolute. The application stands allowed in terms of prayer clause (a).

Order in Appeal:-

8. Admit. Respective counsel waives notice for the respective parties. Paper book and print dispensed with. Call Record and Proceedings.

[AJIT B. KADETHANKAR, J.]

KBP