

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

**INTERIM APPLICATION NO. 13929 OF 2024
IN
FIRST APPEAL NO. 1168 OF 2024**

Sabra Nesha Ainul Ansari & Ors.

..... Applicants/
Respondent Nos.1 to 5

IN THE MATTER BETWEEN

The General Manager,
Bombay Electric Supply & Transport
Corporation, Mumbai

..... Appellant

Vs.

Sabra Nesha Ainul Ansari & Ors.

..... Respondents

Mr. Amol A. Gatne i/b. Ms. Swati Uday Mehta for Applicants in I.A.No.13929/2024 and Respondent Nos.1 to 5 in F.A.No.1168/2024.

Mrs. Karishma Jhaveri i/b. Navdeep Vora & Associates, for the Non-Applicant/Appellant-BEST.

CORAM : SHYAM C. CHANDAK, J.

DATED : 21st FEBRUARY, 2025.

P.C. :-

. Heard learned counsel for the Applicants and the learned counsel for the non-applicant.

2) By this Application, the Applicants are seeking withdrawal of the balance compensation amount. The non-applicant has opposed the Application by filing its reply.

3) The Applicants are seeking to withdraw the balance amount on the ground that after death of her husband, the Applicant No.1 has started

working as a domestic aid. But her income is not sufficient for the family. It has become difficult to manage the educational expenses of her daughters i.e., Applicant Nos.2 to 4, medical expenses of her aged mother-in-law/Applicant No.5 and the day to day domestic expenses. That, the Applicants are residing in a *chawl* room on rental basis. Earlier, the Applicants were permitted to withdraw 50% of the compensation amount. Out of the said amount, the Applicants have paid some amount as an advance to purchase the said room. Now, the Applicants wants to finalise the said deal. Therefore, the Applicants may be permitted to withdraw the balance amount.

4) The Respondent contended that the grounds stated in the Application are not justifiable.

5) Considering the rival submissions, I noticed that, the Applicant No.2 to 4 are aged 9 years, 6 years and 5 years, respectively. However, details of their educational expenses are not stated in the Application. No rent receipt is produced to show that that, the Applicants are residing on rent in a *chawl* room. The details of the said room and its owner are not stated in the Application. The advance amount, date of its payment and the total transaction amount is not mention in the Application. The agreement to purchase the *chawl* room is also not enclosed with the Application. Recently, by Order dated 2nd May, 2024 this Court permitted the Applicants to withdraw Rs.30,63,078/- i.e., 50% of the compensation amount inclusive of the minors' shares. The Applicant No.1

has not explained as to how she utilised that amount just within 4-5 months before filing this Application on 18th September, 2024. The amount of the share of the minor Applicants was invested in fixed deposit with the intention to safeguard their interest. For these reasons, the grounds stated in the Application do not appear reasonable to allow this Application as prayed therein.

6) However, considering that the Tribunal has awarded 60% compensation to the Applicant No.1 and 10% compensation to the Applicant No.5 and also directed to pay the said amount, this Application is considered in favour of the Applicants to that extent only.

7) Accordingly, the Applicant No.1 is permitted to withdraw the remaining 10% of her share and the Applicant No.5 is permitted to withdraw the 10% of her share out of the balance compensation amount.

7.1) The Tribunal shall invest remaining amount with Nationalized Bank giving highest interest from time to time.

7.2) The statutory amount deposited in this Court shall be transferred to the Tribunal.

8) The Application stands disposed of in the aforesaid terms.

SHYAM C. CHANDAK, J.)