



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

INTERIM APPLICATION NO. 1979 OF 2025
IN
FIRST APPEAL NO. 625 OF 2025

Nandkumar Motiram Mhatre and Others.

...Applicants.

In the matter between :

State of Maharashtra and Another.

...Appellants.

Versus

Kai. Motiram Balaram Mhatre

Since deceased Thr. Legal Heirs and Others.

...Respondents.

Saurabh Butala for the Appellant.

Mr. A. R. Patil, AGP for the Appellant.

Coram : Sharmila U. Deshmukh, J.

Date : April 22, 2025.

P. C. :

1. Interim Application has been preferred seeking permission to withdraw the entire decretal amount along with interest which has been deposited by the Appellant-State in Reference Court.
2. Learned Counsel appearing for the Applicant-original Claimant submits that by the judgment of 2021, the enhanced compensation of Rs.36,56,272/- was granted. He submits that the entire decretal amount along with accrued interest came to be deposited in the Reference Court as a condition for stay. He submits that lands of the

Applicant were acquired in the year 1986 and till date, no compensation has been paid though the enhanced compensation has been awarded by Reference Court. He submits that in respect of the same village, the Reference Court in a recent decision of 2023, has granted compensation @ Rs.750/- per sq. meter whereas in the present case the compensation has been awarded @ Rs.454/- per sq. meter. He submits that in view thereof, the Applicant-Claimants be permitted to withdraw the amount deposited.

3. *Per contra* learned AGP submits that if the entire decretal amount is permitted to be withdrawn without furnishing security, in event the Appellant succeeds in Appeal, restitution would be difficult. He submits that considering that Appeal is pending for hearing, the Claimant should not be permitted to withdraw the entire decretal amount.

4. I have considered the submissions and perused the record.

5. The acquisition is of the year 1986 and after almost 40 years, the adjudication of amount of compensation has not obtained finality. The Reference Court by judgment of 15th February 2021 has enhanced the compensation which is subject matter of challenge in the present Appeal. Considering the financial constraints pleaded by the Applicant-Claimant in the Application, the Applicant-Claimant can be permitted to withdraw 50% of the entire decretal amount along with accrued

interest deposited in Reference Court by furnishing the usual undertaking and the balance 50% upon furnishing solvent surety to the satisfaction of Reference Court. The Reference Court is directed to hear the Appellant – State before accepting solvent surety.

6. In the light of above, Interim Application is allowed by permitting the Applicant-Claimant to withdraw 50% of the entire decretal amount along with accrued interest deposited in the Reference Court upon furnishing the usual undertaking and the balance 50% upon furnishing solvent surety to the satisfaction of Reference Court.

[Sharmila U. Deshmukh, J.]