



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

901 CIVIL APPLICATION NO.2888 OF 2024
IN
FIRST APPEAL NO.3223 OF 2023

KALAWATIBAI RANGNATH KARAD DIED THR LRS ELWANT R. KARAD DIED
THR LRS SHANTABAI E. KARAD AND OTHERS

VERSUS

THE EXECUTIVE ENGINEER, MINOR IRRIGATION DIVISION, NANDED AND
OTHERS

...

Mr. R.N. Chavan, Advocate h/f Mr. S.V. Kurundkar, Advocate for applicants
Mr. S.G. Bhalerao, Advocate for respondent No.1

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CORAM : SMT. VIBHA KANKANWADI &
ABHAY S. WAGHWASE, JJ.

DATE : 21st JANUARY, 2026

ORDER :

. Present application has been filed for directions to respondents to deposit 75% amount with the accrued up to date interest that has been awarded by learned Reference Court in Land Acquisition Reference No.468/2010.

2 We have heard learned Advocate Mr. R.N. Chavan holding for

learned Advocate for S.V. Kurundkar for applicants – original respondents and learned Advocate Mr. S.G. Bhalerao for respondent No.1 i.e. original appellant.

3 Learned Advocate for applicants submits that this Court by order dated 08.08.2023 had granted stay to the Award by imposing a condition upon the Acquiring Body that it should deposit 50% of the Award amount within a period of 12 weeks. When the said amount was not deposited, the applicants had preferred contempt petition and thereafter the said amount came to be deposited. However, in the similarly situated case i.e. the persons whose lands were acquired under the same Award, this Court had granted stay subject to deposit of 75% of Award amount. He also points out order passed by Hon'ble Supreme Court on 21.04.2025 in **Swarup and others etc. vs. The State of Maharashtra and others** in Petition(s) for Special Leave to Appeal © No(s).10812-10820/2024, wherein note was taken that in other matters this Court had directed 100% of the decretal amount to be deposited, however, in that matter only 70% of the decretal amount was directed to be deposited. It was observed that petitioner should bring the fact to the notice of this Court and then this Court was directed to take appropriate decision. Thereupon, this Court by order dated 25.07.2025 modified the Award and Acquiring Body was directed to deposit 100% of the

amount on the ground of parity.

4 Here, it is to be noted that the appeal has been admitted. When it is disputing the figure i.e. the amount for which the Award has been passed, grounds for the appeal have been made out. Under such circumstance, it would be unjustifiable to ask the appellants to deposit the entire amount. But, certainly, when the Award has been passed, while granting stay there has to be direction to deposit certain amount. In our order dated 08.08.2023 it was made clear that the stay is granted to the execution of Award, if the amount to the tune of 50% of Award is deposited within a period of 12 weeks. It was made clear that if the deadline is not adhered to, then it should be treated that there is no stay. Now, according to applicants, the said deadline was not adhered to. Then instead of taking the matter for execution they preferred the contempt petition for the reasons best known to them. Thereafter, when the amount was deposited, they had preferred application for withdrawal of amount and by order dated 16.01.2025 they were allowed to withdraw the amount i.e. 50% of the same upon undertaking and 50% on furnishing security. It appears that when that application was made, submission was also made on behalf of applicants that in the order passed on 01.09.2023 by this Court in Civil Application No.7567 of 2023 in First Appeal No.3485 of 2022 the applicants were allowed to

withdraw the amount to the extent of 72.56 %. That means, the oral request was then rejected by this Court and taking into consideration the order already passed on 08.08.2023, the amount has been withdrawn. The applicants have failed to show that there are any good grounds for modification of the order. The interest of applicants has already been secured, rather when right was given to them, in a way that the stay was conditional; yet they had not taken the opportunity when in between the situation arose that there was no stay. Still they abstain themselves from filing the execution petition. Therefore, we do not find any merit in the application. The applicants are at liberty to pursue their right in the appeal. Application stands rejected.

(ABHAY S. WAGHWASE, J.)

(SMT. VIBHA KANKANWADI, J.)

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