

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.11475 OF 2025

Padmakar s/o Haribhau Muley,
Age 84 years, Occupation – Agril. & Business,
R/o. Shivaneri, Bansilal Nagar,
Chhatrapati Sambhajnagar.

..Petitioner

VERSUS

1. The Competent Authority,
Land Acquisition, National Highway No.211,
Chhatrapati Sambhajnagar and
Sub Divisional Officer,
Chhatrapati Sambhajnagar.

2. The Project Director,
National Highway No.211,
Office at B-23, Near Kamgar Chowk,
N-4, Cidco,
Chhatrapati Sambhajnagar

..Respondents

...
Mr. G.K. Naik-Thigale h/f Mr. D.A. Bide, Advocate for Petitioner
Mr. D.P. Madkar h/f Mr. D.S. Manorkar, Advocate for Respondent
No.1.

Mr. S.J. Rahate, Advocate for Respondent No.2.

...
CORAM : S. G. CHAPALGAONKAR, J.

DATED : FEBRUARY 11, 2026

FINAL ORDER :-

1. The petitioner takes exception to order dated 14.08.2025 passed by learned Joint Civil Judge, Senior Division, Aurangabad below Exhibit-19 in A.R.D. No.3373 of 2025, whereby petitioner/decreed holder is permitted to withdraw amount of compensation deposited by respondent/judgment debtor, however, by putting condition to file solvent security to satisfaction of Court.

2. The petitioner's landed property was acquired for purpose of National Highway No.211. The official award was passed on 10.01.2018. Aggrieved petitioner has filed proceeding seeking enhancement of compensation before Arbitrator, who passed arbitration award dated 12.01.2024. The respondent/national highway authority approached Principal District Judge and filed Civil M.A. No.277 of 2024 seeking stay to award dated 12.01.2024 passed in Arbitration Application No.108 of 2018. The learned Principal District Judge allowed said application subject to condition that respondent/authority deposits 50% of awarded amount with Executing Court within a period of three months. Aggrieved by order of learned Principal District Judge, petitioner as well as respondent/authority had filed writ petitions before this Court. This Court modified impugned order passed by Principal District Judge and directed stay to award on furnishing security for 50% of amount and in addition to deposit of 50% of amount.

3. In aforesaid factual background, petitioner filed an application for withdrawal of amount deposited by respondent/authority before Executing Court contending that respondent failed to furnish security for 50% of amount and violated conditions imposed by this Court while disposing writ petition. The Executing Court partly allowed application and permitted petitioner

to withdraw 50% of amount deposited by judgment debtor subject to condition of furnishing solvent surety to satisfaction of Court.

4. Mr. Thigale, learned advocate appearing for petitioner would submit that respondent no.2 has violated directions given by this Court under order dated 11.06.2025 in Writ Petition No.12931 of 2024, whereby stay to execution of award was granted on condition to furnish security for 50% of amount in addition to deposit of 50% amount as per award passed by Arbitrator. He would submit that since security is not furnished, interim stay granted by Principal District Judge or confirmed by this Court stood vacated. The petitioner was entitled for withdrawal of amount without any fetter. In support of his contention, he relies upon observations of this Court in case of ***Ganpat Shankar Waghmare Vs. Smt. Anjalibai Rao Waghmare and another*** reported in ***2001 (2) Mh.L.J. 756***.

5. Mr. Madkar, learned advocate appearing for respondent no.1 supports impugned order.

6. Having considered submissions advanced by learned advocates appearing for respective parties, undisputedly, award has been passed in favour of petitioner and presently, it is subject matter of Civil M.A. No.277 of 2024 before Principal District Judge, Aurangabad. The execution of award has been stayed by order of Principal District Judge, subject to certain conditions. Thereafter, this Court modified condition laid down by learned Principal District

Judge and directed respondent to deposit 50% of amount and furnish security for balance 50% of amount as a condition for continuation of stay.

7. Undisputedly, condition to the extent of depositing 50% of amount has been complied with but later part to furnish security is not yet complied. The petitioner sought withdrawal of amount contending that non-observance of condition imposed by this Court resulted into vacation of interim relief.

8. Admittedly, the respondent/authority has deposited 50% of amount as awarded by Arbitrator. The substantive Civil M.A. No.277 of 2024 is pending wherein challenge is raised to validity of award. In this background, the Executing Court permitted petitioner to withdraw amount by putting certain conditions.

9. In aforesaid backdrop, without entering into merits of contention of parties, interest of justice would be served, if petitioner is permitted to withdraw 50% out of amount deposited by respondent on furnishing personal undertaking that he would re-deposit amount in case award is modified or set aside within a period of six weeks from the date of such order. The petitioner shall be entitled to withdraw balance of deposited amount on furnishing solvent surety. As such, petitioner shall be entitled to withdraw entire amount of Rs.8,37,24,079 along with accrued interest thereon on aforesaid

conditions. The order impugned is modified to that extent and writ petition stands disposed of accordingly.

(S.G. CHAPALGAONKAR, J.)