


MHLA050003322018	<b><u>Order below Exh.16 in Spl.Darkhast No.229/2018</u></b>
	<b>[ Hemant &amp; Ors. Vs. State of Maharashtra &amp; Ors. ]</b>

The DH. has filed application to claim payment of compensation deposited by the Land Acquisition Officer under Section 13 of the Land Acquisition Act.

2. According to D.H., the property bearing Sy.No.54 of village Kalegaon, Tq.Ahmedpur owned by him and his brother Jayant. Patil of it was acquired for the public purpose by the Acquisition Officer. The dispute arose between DH and JD's regarding the claim. R.C.S.No.21/2013 (New) R.C.S.No.96/2009 (Old) was filed against J.D.No.3 and another. It was decreed and DH were declared owners of land Sy.No.54/1/1. As there was dispute about title and ownership of the acquired land, the Land Acquisition Officer referred the matter to the Civil Court along with amount of compensation. The reference is 1/2008. It was decided on 06/08/2016 and the DH were hold entitled for the compensation. Present execution petition is filed to get the amount deposited in the Court. The amount is shown in the name of JD's and therefore it is prayed that the amount may be handed over to the DH.

3. Say is filed by DH No.3 to the petition. According to him the decree in RCS No.21/2013 is sub-judice before the Hon'ble District Court, Ahmedpur and it's execution is stayed on 21/10/2016. The execution petition is filed on 15/06/2018. As the right of DH is not finally determined, the amount granted cannot

be withdrawn by them and so it is prayed that the application may be rejected.

4. Heard Advocate Shri.S.V.Deshmukh for DH and Advocate Shri.B.G.Shaikh for J.D.No.3.

5. Admittedly the evidence in RCS No.21/2013 and Land Reference No.1/2008 was taken together. The issues in RCS No.21/2013 and the points for determination in land reference No.1/2008 move around ownership of the parties upon the property. From the perusal of Exh.1 of the execution petition, it is seen that the petition is filed for the recovery of the amount in LAR No.1/2008. From the perusal of the order passed by the Hon'ble Distric Court below Exh.5 in R.C.A.No.16/2016, it is seen that the execution of the decree in RCS No.21/2013 is stayed. Once the execution decree is stayed the Executing Court should hold its hand and should not proceed further is the rule. The quesiton that the execution petition is filed for execution of order in LAR No.1/2008 which is unchallenged cannot be said to be correct as rights of the parties are still under consideration and the outcome of the LAR No.1/2008 depends uon the decision in RCA No.16/2016. So if the amount is allowed to be withdrawn, it will cause prejudice to the interest of JD's, if he succed in the appeal.

6. As on today, the amount stands with the Court and is invested in the term deposit scheme in the Nationalised bank. So by the time appeal is decided, it would be improper to release the amount in LAR No.1/2008.

7. Learned Advocate for JD No.3 also submitted that today itself he has argued on behalf of the JD Nos.3 in RCA No.16/2016. So its decision would be around the corner of the eyes. Therefore, it is not proper to allow the application at this stage. Hence, the order -

### ORDER

1. The application is rejected.
2. No order as to costs.

Date:27/06/2024.

Sd/-  
( **S.N.Sarde** )  
Civil Judge Sr. Div., Ahmedpur.