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ITEM NO.25

COURT NO.13

SECTION IX

S U P R E M E C O U R T O F I N D I A  
RECORD OF PROCEEDINGS

Petition(s) for Special Leave to Appeal (Civil)...../2013  
CC 5715/2013

(From the judgement and order dated 19/10/2012 in CA No.9998/2012 in FA No.5/2012 of The HIGH COURT OF BOMBAY AT AURANGABAD)

SARJERAO DEONATH SHINDE(D) TR.LRS.& ORS Petitioner(s)

VERSUS

STATE OF MAHARASHTRA & ANR Respondent(s)

(With appln(s) for c/delay in filing SLP)

Date: 15/03/2013 This Petition was called on for hearing today.

CORAM :

HON'BLE MRS. JUSTICE GYAN SUDHA MISRA  
HON'BLE MR. JUSTICE J. CHELAMESWAR

For Petitioner(s) Mr. Shivaji M. Jadhav, Adv.  
Ms. Prity Kunwar, Adv.

For Respondent(s)

UPON hearing counsel the Court made the following  
O R D E R

Delay condoned.

The petitioners herein have been awarded an amount of 2,50,000/- per hec. by way of compensation in view of the acquisition of their land.

The beneficiary of the acquisition, which is Maharashtra State Industrial Development Corporation Limited (in short 'MSIDC'), has challenged the grant of compensation before the High Court, which is pending consideration. However, the High Court has granted stay of execution of the award on condition that 70% of the awarded amount shall be deposited by the MSIDC, which has been complied by the beneficiary MSIDC.

The petitioners then moved an application to withdraw the deposited amount which although has been allowed by the High Court, stringent conditions have been imposed before the petitioners could be permitted to withdraw the amount. It has been stated that the learned Judges of the High Court permitted the petitioners to withdraw only 25% of the amount on furnishing solvent security of the like amount, another 25% of the amount on furnishing bank guarantee and the balance 25% amount was ordered to be kept in fixed deposit.

It was submitted by learned counsel that although conditions have been imposed on the petitioners for withdrawal of the amount deposited by the MSIDC in the High Court, no such conditions were imposed on other awardees in analogous matters.

It was also explained that it would be difficult for the agriculturists to furnish bank guarantee for the amount awarded to the petitioners. He has, therefore, sought a direction to set aside the conditions imposed by the High Court.

Having heard the counsel for the petitioners, we find sufficient force in the contention as the petitioners, in any event, are surely entitled to some compensation which may be at least 50% of the amount awarded even by rough estimate. Hence, we see no reason why they should not be allowed to withdraw 50% of the amount awarded by the courts below without furnishing security. However, the balance amount may be kept by the High

Court in fixed deposit after matter is finally disposed of by the High Court.

We are, therefore, of the view that no condition should have been imposed by the High Court insofar as withdrawal of the 50% of the amount is concerned.

Insofar as the balance amount towards deposit is concerned, the condition appears to be justified, since the same is under challenge and sub judice before the High Court.

But before modifying the order of the High Court, we deem it appropriate to hear the respondents also and hence a short notice be issued to the respondents making it returnable within two weeks.

Petitioners are at liberty to serve the notice by way of dasti service.

| (Neetu Khajuria)

| (P.S. Tyagi)

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| Sr.P.A.

| Court Master

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