

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) No(s).24657/2009

(From the judgement and order dated 21/04/2009 in FA No. 621/2006 & CA No. 7943/2008 of The HIGH COURT OF BOMBAY AT NAGPUR)

VIJAYADEVI NAVALKISHORE BHARTIA & ORS. Petitioner(s)

VERSUS

STATE OF MAHARASHTRA & ANR. Respondent(s)

(With appln(s) for permission to file rejoinder affidavit, permission to file additional documents)

Date: 05/02/2010 This Petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE J.M. PANCHAL
HON'BLE MR. JUSTICE DEEPAK VERMA

For Petitioner(s) Mr. Shyam Diwan, Sr. Adv.
Mr. S.A. Desai, Adv.
Ms. Anagha S. Desai, Adv.

For Respondent(s) Mr. Chinmoy A. Khaladkar, Adv.
Mr. Sanjay Kharde, Adv.
Ms. Asha Gopalan Nair, Adv.

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

Leave granted.

The Appeal is disposed of.

[SUMAN WADHWA]
COURT MASTER

[VINOD KULVI]
COURT MASTER

Signed order is placed on the file.
IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 1482 OF 2010
(Arising out of SLP(C)No. 24567/2009)

VIJAYADEVI NAVALKISHORE
BHARTIA & ORS.

.. APPELLANT(S)

vs.

STATE OF MAHARASHTRA & ANR.

.. RESPONDENT(S)

O R D E R

Leave granted.

This appeal is directed against the judgment dated 21st April of 2009 rendered by the High Court of Judicature at Bombay, Nagpur Bench, Nagpur in C.An. No. 7943 of 2008 which was filed in First Appeal No. 621 of 2006 whereby the following interim order was passed:

"We permit the respondents to withdraw the compensation amount deposited by the appellants @ Rs.22,57,400/- per Hectare for an area of 0.2417 Hectare. In addition, the respondents shall be entitled to withdraw solatium @ 30% and interest @ 12% from 22.9.1999 till 27.6.2002 as per Section 23(1) (A) of the Land Acquisition Act, 1894. The respondents shall further be entitled to interest @ 9% per annum from 22.9.1999 i.e. the date of possession found by the Reference Court till 21.9.2000 and @ 15% per annum, from 22.9.2000 till the date of deposit i.e. 16.4.2007.

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It is made clear that the amount calculated as aforesaid shall be withdrawn by the respondents upon furnishing security to the satisfaction of the Registrar (Judicial) of this Court, who shall calculate the actual amount, according to the rate specified by us above. It is further made clear that this order is without prejudice and contentions of either parties, at the final hearing of the appeal. The balance amount deposited by the appellants shall be invested in any Nationalized bank, pending appeal."

The direction given by the High Court to invest the balance amount in any nationalized Bank pending appeal is the subject matter of the instant appeal. When the matter came up for preliminary hearing a statement was made by the learned senior counsel for the appellant that they were ready and willing to furnish the bank guarantee of any nationalized bank to the satisfaction of the High Court but it shall be kept alive till the disposal of the appeal.

Having regard to the facts of the case it is directed that the balance amount be permitted to be withdrawn by the appellants in the event they furnish bank guarantee to the satisfaction of the High Court. It is further directed that in case the appeal filed by the

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respondent is allowed, the present appellants shall return

the amount permitted to be withdrawn by this order with 12% interest.

The appeal is disposed of accordingly.

.....J.
(J.M. PANCHAL)

.....J.
(DEEPAK VERMA)

New Delhi,
February 5, 2010.