

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

43 CIVIL APPLICATION NO. 15686 OF 2015
IN FA/3053/2015

PRAKASH DAMU SHINGARE
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

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Advocate for Applicant : Mr. Patil Milind
AGP for Respondents-State: Mr. A. M. Phule
Advocate for Respondent No.3 : Mr. A. V. Hon

CORAM : A. M. BADAR, J.

DATE : 14th December, 2015

PER COURT :

Learned counsel for the applicant submits that he will file Vakalatnama during the course of the day.

1. This is an application for withdrawal of amount under the award deposited by non Applicant No.3/Acquiring authority.

2. Heard learned counsel for the applicant/ as well as learned counsel appearing for non applicant No.3/ appellant and learned AGP appearing for non-applicants 1 and 2.

3. Notification under section 4 of the Land Acquisition Act is dated 23.09.2002. The Special Land

Acquisition officer had awarded compensation at Rs.46,500/- per hectare whereas the learned Reference Court has enhanced it to Rs.83,200/- per hectare. Land in question was from village Newli, Taluka Latur. Perusal of Para 15 of the impugned judgment shows that the learned Reference Court has placed reliance on sale instance relied by learned Special Land Acquisition Officer and particularly that of land Gat No.15 which represent price at Rs.71,428/- per hectare. This sale instance is dated 21.03.2001. 10% increase was granted considering date of notification under Section 4 of the Land Acquisition Act and accordingly compensation in respect of acquired land was assessed by the learned Reference Court at Rs.83,200/- per hectare. In this view of the matter, the application is allowed in terms of following order:

- i. Applicant is permitted to withdraw 50% amount under the award by furnishing personal undertaking that in the event of allowing the appeal, he will refund the amount within a period of 30 days.
- ii. Applicant is further allowed to withdraw 25% amount under the award by furnishing solvent surety for the same.

iii. Remaining 25% of the amount under the award shall be kept in fixed deposit of any Nationalized Bank initially for a period one year. The fixed deposit be renewed from time to time during pendency of this appeal.

iv. Civil Application is disposed of accordingly.

(**A. M. BADAR, J.**)

JPC