

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR

C.A.F.NO.2039/2015 IN F.A.NO.650/2012.

Maharashtra State Power Generation Co. Ltd.

-VERSUS-

Smt. Rukhmabai Vithoba Chaure and others.

Office notes, Office Memoranda of
Coram, appearances, Court's orders
or directions and Registrar's orders.

Court's or Judge's Orders

**CORAM : B.P.DHARMADHIKARI
& P.N. DESHMUKH, JJ.**

DATE : SEPTEMBER 11, 2015.

Heard Shri L.V. Shrikhande, learned
counsel for the appellant and Shri S.N. Bhattad,
learned Counsel for the applicants/respondents.

2. The land owners, who are respondents in
First Appeal No.650/2012, have moved this
application seeking leave to withdraw an amount of
Rs.73,93,324/- deposited by the acquiring body
[appellant], with the Registry of this Court.

3. The appeal is under Section 54 of the Land
Acquisition Act. The land owners have also filed cross-
objection.

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4. Acquisition is of the year 1996 and Shri Bhattad, learned counsel points out that Water Works Department had acquired some land from very same village in the year 1986, where in reference proceedings rate of Rs. 4.55 lacs, per hector was allowed. He further states that about 5 sale instances are relied upon by the Reference Court, and these sale instances are for the period from 1983 to 1986, where rate is Rs. 3.37 lacs per hector to Rs. 6.25 lacs per hectors. Considering this material, the Reference Court has enhanced the compensation.

5. Learned counsel for the acquiring body, submits that the Land Acquisition Officer allowed rate of Rs. 3 lacs per hector and it has been enhanced to Rs. 9 lacs per hector, and thus this enhancement is in excess of 300% and exorbitant.

6. During hearing we find that about 34 such appeals have been preferred before this Court and in all appeals this Court has granted leave to owners to withdraw the amount. In this situation, we at least prima facie do not find any thing wrong with the enhancement as granted.

7. Hence, following the earlier orders we

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permit the land owners to withdraw the amount in deposit with interest accrued upon it, subject to their furnishing security to the satisfaction of the Reference Court. The security shall be kept valid and alive till the adjudication of this appeal and shall accordingly contain an undertaking to that effect.

8. The claimants/respondents shall also file an undertaking before this Court, thereby agreeing to refund the amount in case the appeal is allowed, within six weeks of such adjudication, with such interest as this Court may in that event direct. This undertaking be filed within a period of three weeks from today with the Registry of this Court.

9. Civil Application is accordingly allowed and disposed of. No costs.

JUDGE**JUDGE**

Rgd.