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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CIVIL APPLICATION NO.8447/2016
IN
FIRST APPEAL NO.2664/2016

Godavari Marathwada Irrigation
Development Corporation, Aurangabad.
...Applicant..

Versus

Sayyed Ghudan Shaffiuddin & others.
...Respondents...

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CIVIL APPLICATION NO.8455/2016
IN
FIRST APPEAL NO.2665/2016

Godavari Marathwada Irrigation
Development Corporation, Aurangabad.
...Applicant..

Versus

Kiran Ramrao Hiware & others.
...Respondents...

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CIVIL APPLICATION NO.8459/2016
IN
FIRST APPEAL NO.2666/2016

Godavari Marathwada Irrigation
Development Corporation, Aurangabad.
...Applicant..

Versus

Kiran Ramrao Hiware & others.
...Respondents...

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CIVIL APPLICATION NO.8449/2016

IN

FIRST APPEAL NO.2667/2016

Godavari Marathwada Irrigation
Development Corporation, Aurangabad.
...Applicant..

Versus

Govind Dattatraya Hiware & others.
...Respondents...

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CIVIL APPLICATION NO.8453/2016

IN

FIRST APPEAL NO.2668/2016

Godavari Marathwada Irrigation
Development Corporation, Aurangabad.
...Applicant..

Versus

Ravi Dattatraya Hiware & others.
...Respondents...

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CIVIL APPLICATION NO.8453/2016

IN

FIRST APPEAL NO.2668/2016

Godavari Marathwada Irrigation
Development Corporation, Aurangabad.
...Applicant..

Versus

Ravi Dattatraya Hiware & others.
...Respondents...

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**CIVIL APPLICATION NO.8451/2016
IN
FIRST APPEAL NO.2669/2016**

Godavari Marathwada Irrigation
Development Corporation, Aurangabad.
...Applicant..

Versus

Dipak Dattatraya Hiware & others.
...Respondents...

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**CIVIL APPLICATION NO.8457/2016
IN
FIRST APPEAL NO.2670/2016**

Godavari Marathwada Irrigation
Development Corporation, Aurangabad.
...Applicant..

Versus

Ram Govind Hiware & others.
...Respondents...

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Shri S.G. Bhalerao, Advocate for applicant.
Shri N.V. Gaware, Advocate h/f Shri G.K. Sontakke,
Advocate for respondent no.1.
Smt.M.A. Deshpande, AGP for respondent nos.2 & 3.

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**CORAM: R.D. DHANUKA &
SUNIL K. KOTWAL, JJ.**

DATE: 27.09.2017

ORDER :

1] By these civil applications, the applicant seeks stay of the operation of the impugned judgment and award in Land Acquisition Reference No.675/2008 dated 30.12.2014 passed by the learned Civil Judge, Senior Division, Ahmedpur.

2] Mr.Bhalerao, learned counsel for the applicant, invited our attention to the sale deed dated 10.2.2004, which was referred to and relied upon by the Reference Court and the consideration mentioned therein. He submits that the Reference Court had referred to and relied upon only one sale instance while awarding exorbitant amount in favour of the claimants. He submits that though the solitary sale deed was relied upon by the Reference Court, actual compensation awarded in favour of the claimants is much more than the amount mentioned in the sale deed. He submits that the applicant is ready and willing to deposit the amount based on the consideration mentioned in the sale deed and upon such deposit, this Court may be pleased to grant stay in favour of the applicant.

3] Learned counsel for the applicant submits that

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the Reference Court in another land acquisition proceedings in respect of the identical plot had awarded the compensation at the rate of Rs.14,00,000/- per Hectare, whereas the valuation according to the sale deed in question would indicate the rate at Rs.21/- per Sq.Ft. equivalent to Rs.21,85,184/- per Hectare.

4] Mr.Gaware, learned counsel for the claimants, on the other hand invited our attention to the sale deed dated 10.2.2004 and would submit that the consideration mentioned in the sale deed referred to and relied upon by the Reference Court was Rs.2700/- per Sq.Ft. though the valuation of the said plot in question even according to the ready reckoner was Rs.54,32,000/-. He submits that seven sale instances were referred before the Reference Court by the claimants, out of which the Reference Court selected only one sale instance showing the lowest consideration. Our attention is also invited to various paragraphs of the impugned order in support of the submission that the Reference Court had considered the valuation on the basis of the rates prescribed in the ready reckoner and not on the basis of sale price mentioned in the said sale deed. He submits that the

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land in question, which is subject matter of the sale deed, was *Jirayat* land, whereas the land in question fell within the Municipal limit and had N.A. potentiality. He submits that the amount awarded by the Reference Court being in the nature of money decree, the applicant be directed to deposit the entire decretal amount if this Court proposes to grant stay in favour of the applicant.

5] A perusal of the impugned order passed by the Reference Court *prima facie* indicates that the Reference Court has considered the rates according to the ready reckoner and also considered the fact that the land in question fell within the Municipal limit and had N.A. potentiality. The rates considered by the Land Acquisition Officer, however, were on lower side. On perusal of the sale deed, which is considered by the Reference Court, it is clear that though the ready reckoner rate was Rs.54,32,000/- per Hectare, the sale deed was executed only for consideration of Rs.13,76,760/-, which was on much lower side.

6] Insofar as other submission sought to be made by the learned counsel for the applicant is concerned, this Court will have to evaluate the evidence produced by both

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the parties before the Court while considering these first appeals at the stage of final hearing. Even the rival contentions of both the parties can be considered by this Court *prima facie* as and when an application for withdrawal is made by the claimants upon the applicant depositing the amount as may be directed by this Court.

7] With these facts at hand, we are not inclined to grant stay in favour of the applicant on deposit of partial amount. We, therefore, pass the following order.

O R D E R

The civil applications are allowed and made absolute in terms of prayer clause (B) on the condition that the applicant deposits the entire awarded sum with interest in this Court within twelve weeks from today without fail and shall intimate the claimants' Advocate simultaneously upon such deposit. The claimants would be at liberty to apply for withdrawal by filing appropriate application/s upon such deposit being made by the applicant. It is made clear that if the amount is not deposited by the applicant within the time prescribed, the aforesaid interim relief granted by this Court shall stand vacated without further reference to the Court. If

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any application is made by the claimants for withdrawal upon such deposit being made by the applicant, such application for withdrawal shall be considered by this Court on its own merits.

8] The civil applications are disposed of on aforesaid terms. No order as to costs.

(SUNIL K. KOTWAL, J.)

(R.D. DHANUKA, J.)