

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

914 CIVIL APPLICATION NO. 10891 OF 2017 IN FAST/10852/2016

SUBASH SHANKARRAO KADAM (PATIL)
VERSUS
THE STATE OF MAHARASHTRA AND ANR

...
Advocate for Applicant : Mr. Darshan D. Pokharkar .
AGP for Respondent-State : Mr. S. R. Yadav-Lonikar.
...

CORAM : K.K. SONAWANE, J.

DATED : 07TH SEPTEMBER, 2017.

Order :-

Heard learned counsel for the applicant and the learned AGP for the respondents-State. Perused the application.

2. The respondents-State has deposited in all Rs. 28,12,902/- (Rs. Twenty Eight Lac Twelve Thousand Nine Hundred and Two Only) towards decretal amount awarded by the Reference Court in Land Acquisition Reference No. 179 of 2011 (Old LAR No. 185 of 2010). The applicant moved present application seeking permission to withdraw the amount.

3. The learned AGP for respondent-State raised objection and submits that the Special Land Acquisition Officer has determined the market value of the acquired land @ Rs. 28,000/- per Hectar, however, the learned Reference Court has granted exorbitant amount of compensation @ Rs. 53,000/- per Acre. He submits that, the respondent State has filed appeal and put in controversy the findings of the learned Reference Court. In such circumstances, application may not be allowed to withdraw the amount.

4. The learned counsel of the applicant drawn the attention of this court towards the findings expressed by the learned Reference Court, wherein it has been mentioned that the learned Reference Court determined the market value at the rate of Rs. 53,000/- per Acre, on the ground of parity, as in earlier reference petitions in which lands have been acquired under the same notification, the market value was determined @ Rs. 53,000/- per Acre. As such, the market value determined by the learned Reference Court is just and proper. Therefore, the applicant may be allowed to withdraw the amount.

5. I have given anxious consideration to the submissions advanced on behalf of both sides. Perused the application. Admittedly, there is vast difference between the market value determined by the Special Land Acquisition Officer while passing the Award under section 11 of the Land Acquisition Act and the market value determined by the learned Reference Court under section 18 of the Land Acquisition Act. However, the learned reference court, after appreciating the evidence on record allowed the reference petitions for enhancement of compensation amount. In such circumstances, I do not find any impediment to allow the applicants for withdrawal of 50% of the amount deposited by respondent-State in this case. Therefore, the applicant is hereby permitted to withdraw 50 % of the amount deposited by respondent-State in this appeal which accrued to Rs.14,06,451/- (Rs. Fourteen Lacs Six Thousand Four Hundred Fifty One Only).

6. The Registry to disburse the amount mentioned above in favour of applicant, on furnishing undertaking to the effect that, in case, any adverse situation arises after adjudication of appeal on merit, the applicant will refund the amount within stipulated period as directed by this Court. The

rest 50 % of the amount deposited on behalf of respondent-State in this appeal be invested in any Nationalized Bank for a period of two years or adjudication of appeal on merit, whichever is earlier.

7. Accordingly, Civil Application in above terms stands disposed of.

[K. K. SONAWANE]
JUDGE

rrd.