

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

912 CIVIL APPLICATION NO. 10429 OF 2017
IN FA/334/2016 WITH CA/7009/2015 IN FA/336/2016 WITH
CA/7012/2015 IN FA/334/2016 WITH CA/7014/2015 IN
FA/335/2016 WITH CA/10430/2017 IN FA/336/2016 WITH
CA/10431/2017 IN FA/335/2016

SYED MUSA BEGU
VERSUS
THE EXECUTIVE ENGINEER, MINOR IRRIGATION DIVISION NO.1,
AURANGABAD AND ORS

...
Advocate for Applicant : A.N. Ansari
Advocate for Respondent-1: Smt. Ranjana D. Reddy
AGP for Respondents No. 2,3 : Mr. S.P.Sonpawale.
...

CORAM : K.K. SONAWANE, J.

DATED : 09TH AUGUST, 2017.

Order :-

Heard the learned counsel for the applicant (original respondents) and the learned counsel for respondent No.1-original appellant - Acquiring Body as well as learned AGP for the respondents No. 2 and 3. Perused application.

2. The learned counsel for the applicants submits that, the respondents acquired lands of the applicants for construction of Medium Project at village Phulambri and paid the compensation amount. Being dis-satisfied with the amount of compensation, the applicants preferred references under Section 18 of the Land Acquisition Act, 1894, for enhancement of compensation amount. The learned trial Court appreciated the entire evidence on record

and partly allowed the reference petitions on behalf of the applicants and granted enhanced compensation including statutory benefits. The appellant - Acquiring Body agitates the findings of the learned trial Court in these appeals and sought stay to the impugned monetary decree passed by the learned trial Court in reference petition.

3. This Court directed the appellant Acquiring Body to deposit compensation amount, and accordingly, the compensation amount enhanced by the learned trial Court came to be deposited in this Court.

4. According to the learned counsel for the applicants, the lands of the applicants were acquired by the respondents in the year 2002-03 and since then the applicants were constrained to pursue the litigation for getting the compensation amount. The learned counsel for the applicant submits that, the applicants are ready to furnish undertaking for receipt of compensation amount deposited by the Acquiring Body.

5. The learned counsel for the appellant Acquiring Body raised the objection and submits that, there are chances of success in the appeal. The learned trial Court did not appreciate the circumstances in proper manner, and therefore, compensation amount deposited may not be allowed to be withdrawn by the applicants.

6. After giving anxious consideration and arguments advanced by both side, I find it justifiable to allow the applications on certain terms and conditions. Obviously, applicants are pursuing the matter since year 2002-03 for the compensation of their lands acquired by the appellant- respondent. In such circumstances, it would unjust and improper again to keep the applicants stranded of compensation amount in this matter for uncertain period after decision of appeals on merit. Hence, the applications deserve to be allowed.

7. In the light of above, applications stand allowed accordingly. The applicants are permitted to withdraw the 50 % amount on furnishing undertaking to the satisfaction of Registrar (Judicial) of this Court. The remaining 25 % amount be allowed to be withdrawn on furnishing one solvent surety of like amount to the satisfaction of Registrar (Judicial) of this Court and rest 25 % amount be kept in the Nationalized Bank in Fixed Deposit for a period of one year or till disposal of the appeals on merit, whichever is earlier. In case, the appeals are not decided within the stipulated period, the Fixed Deposit may be renewed time to time as per the requirements.

8. Civil applications stand disposed of in aforesaid terms.

[K. K. SONAWANE]
JUDGE

rrd.