

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

916 CIVIL APPLICATION NO. 877 OF 2018
IN FA/3464/2016 WITH CA/882/2018 IN FA/3467/2016 WITH CA/883/2018 IN
FA/3466/2016 WITH CA/884/2018 IN FA/3465/2016

KANTU MALHARI KAMBALE AND ORS
VERSUS
THE STATE OF MAHARASHTRA AND ORS

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Advocate for Applicants : Mr. Laxmikant C. Patil with Mr. V.D. Sapkal
Adv. for Respondent no. 3 : Mr. S.G. Karlekar
AGP for State : Mr. A.D. Namde

CORAM : K.K. SONAWANE, J.

DATE : 19th January, 2018.

PER COURT:

1] Heard the learned counsel for the applicants, learned counsel for the respondent Acquiring Body and learned AGP for State of Maharashtra. Perused the application, the learned counsel for the applicants vehemently submitted that there are other connected matters filed before this court in which respondents/original claimants were allowed to withdraw the entire decretal amount deposited in this court on furnishing undertaking and solvent surety. In some cases from the same award, entire decretal amount came to be deposited before the concerned Reference Court and it was allowed to be withdrawn by the claimants by the concerned Reference Court. Hence, the learned counsel Shri Sapkal fervidly submitted that the present applicants be allowed to withdraw the entire decretal amount deposited in this court on furnishing undertaking or solvent surety, which this court deem fit..

2] The learned counsel for acquiring body raised objection and

submits that the Land Acquisition Officer awarded compensation @ Rs. 370 per R, but, the Reference Court allowed exorbitant amount of compensation at the rate ranging from Rs. 2330 per R to Rs. 4675 per R. Therefore, the learned counsel for the acquiring body vociferously opposed not to allow the applicants to withdraw the entire decretal amount as there is every hope of success in the appeals. The learned AGP prayed to pass suitable orders in the interest of the State of Maharashtra.

3] In view of aforesaid submissions, I find some force in the contentions put forth on behalf of learned counsel for Acquiring Body. Apparently, on the face of record, it would perceive that exorbitant and excessive amount of compensation is awarded to the claimants. In such circumstances, it would be unjust and improper to allow the applicants to withdraw the entire decretal amount on furnishing undertaking or solvent surety, whatever that may be.

4] Considering the attending circumstances and the market value fixed by the Land Acquisition Officer as well as by the Reference Court, it would be justifiable to allow the applicants to withdraw 50% of the amount deposited in this court by the Acquiring Body, on furnishing an undertaking to the effect that, in case any contingency arises the applicants would refund the amount withdrawn by them forthwith, as per the order of this Court. The 25% of the amount deposited in this court is also hereby permitted to be withdrawn by the claimants on furnishing solvent surety of like amount. The balance 25% amount deposited in this court be kept in FDR account, in any Nationalized bank for a period of two years or till decision of the appeals, whichever is earlier. Registry to do the needful for disbursement of the amount, as directed above. Civil applications stand allowed and disposed of accordingly.

[K.K. SONAWANE]
JUDGE.

grt/-