

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

CIVIL APPLICATION NO. 1622 OF 2018
IN
FIRST APPEAL NO. 543 OF 2018

Haribhau Krishna Shingade .. Applicant
versus
The Deputy Engineer (Nirman),
Central Railway, Solapur and ors. .. Respondents

WITH

C. A. NO. 1623/2018 IN FIRST APPEAL NO. 544 OF 2018
C. A. NO. 3597/2018 IN FIRST APPEAL NO. 547 OF 2018
C. A. NO. 3634/2018 IN FIRST APPEAL NO. 548 OF 2018
C. A. NO. 3635/2018 IN FIRST APPEAL NO. 542 OF 2018
C. A. NO. 3575/2018 IN FIRST APPEAL NO. 545 OF 2018

Mr Ramesh V. Naiknaware, Advocate for applicants
Mr M. N. Navandar, Advocate for respondent no. 1
Mr. A. M. Phule, Assistant Government Pleader for
respondent no. 2

CORAM : SUNIL P. DESHMUKH, J.
DATE : 13th April, 2018

ORDER :

1. These are applications for withdrawal of amount deposited in executing court towards compensation for acquisition of lands of applicants. Since the high court is seized of the matters, executing court had directed the applicants to seek orders from the high court for withdrawal of amount and as such applicants are before this court by present applications.

2. Acquisition proceedings were initiated in 2003. Special

land acquisition officer had awarded compensation to applicants at the rate of Rs.16,000/- per acre irrespective whether lands were jirayat or irrigated. Enhancement sought before reference court has been upto Rs.46,000/- per acre for jirayat land and Rs.69,000/- per acre for irrigated land. Accordingly amount is deposited in executing court.

3. Applicants contend that by acquisition of their lands, income earning source has been taken away from them. They are living in difficult times. Their economic condition is worsening day by day. It is submitted that, had compensation awarded by reference court been paid to them immediately on notification issued, perhaps they would have been better placed and could have created source of income for them. However, despite award, they are not getting benefit of the same and amount is lying in executing court. The applicants contend that they direly need the amount.

4. Learned counsel for respondent 1 and learned Assistant Government Pleader for respondent no. 2 submit escalation in rate of compensation by reference court is on much higher side and may not be payable and, therefore, purport to oppose the applications.

5. Having regard to that acquisition of land is in 2003 and

beyond the award amount by special land acquisition officer they have not received anything further. Considering the need amount of compensation granted may be paid to them and it would be expedient to allow applicants to withdraw the amount as under;

(i) Fifty per cent of the total amount deposited in executing court may be allowed to be withdrawn by applicants pursuant to their respective land acquisition references on furnishing undertakings to the satisfaction of executing court that amount being withdrawn by them would be paid back / deposited by them in this court within a period of three months from the date of decision in first appeals, if it goes adverse to their interest. Copies of undertakings may be furnished to this court.

(ii) Further fifty per cent of deposited amount may be withdrawn by applicants on furnishing solvent security to the satisfaction of the executing court.

(iii) Amount being allowed to be withdrawn as aforesaid shall be shared in same proportion as apportioned under the award by reference court and shall also be given similar treatment.

7. Civil applications are disposed of.

SUNIL P. DESHMUKH,
JUDGE

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