

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

10 CIVIL APPLICATION NO. 3003 OF 2018  
IN  
FA/1284/2016

BANDU GOVIND PRADHAN AND ANR.  
VERSUS  
GODAWARI MARATHWADA IRRIGATION  
DEVELOPMENT CORPORATION THR ITS  
EX. ENGINEER, AURANGABAD & ANR.

.....

Mr. S.N.Pagare, Advocate for Applicants.  
Mrs.Kalpalata Bharaswadkar, Advocate for R – 1.  
Mrs. S.S.Raut, A.G.P. for R – 2.

.....

**CORAM : V.L.ACHLIYA, J.**  
**DATE : 24<sup>th</sup> JULY, 2018**

.....

**ORAL ORDER :**

1. Heard learned counsel for the applicants/original claimants and learned counsel representing the appellant/acquiring body. Perused the Award passed by Tribunal.

2. The applicants have moved this application seeking permission to withdraw the amount of Rs. 73,01,553/- [Rupees Seventy Three Lakhs One Thousand Five Hundred Fifty Three] deposited by the appellants – acquiring body pursuant to the Judgment and Order dated 04/09/2012 passed in L.A.R. No. 676/2006 .

3. Learned counsel for the applicants submits that as against the Award passed by Special Land Acquisition Officer awarding compensation @ Rs. 1,000/- per Are, the Reference Court enhanced the compensation @ Rs. 3,756/- per Are. He submits

that the Judgment and Award passed by the Reference Court is based upon the evidence adduced by the claimants and there is no scope to interfere with the Judgment and Order in exercise of appellate jurisdiction. He submits that the applicants were owners of the land which was acquired way-back in the year 2005. Out of 7 H. 34 R. land from G.No. 28 of village Phulambri, the land admeasuring 5 H. 99 R. has been acquired in the acquisition proceeding for construction of minor irrigation tank at village Phulambri. He submits that the applicants have no source of income. Because of acquisition of land, they are suffering great hardship. Their children are prosecuting education. The son of applicant No. 1 is studying at Pune and doing post graduate course in M.Pharmacy. So also his daughter is doing graduation in Bio-tech in Food processing from college at Baramati. Similarly, the son of applicant No. 2 is studying in B.Sc. final year and daughter is studying in 9<sup>th</sup> standard. In this back-ground, the learned counsel submits that the applicants may be permitted to withdraw the entire amount deposited by appellant – acquiring body.

4. Mrs. Bharaswadkar, learned counsel for acquiring body opposed the application with contention that the amount enhanced is without any basis and evidence adduced by claimants. She submits that if in case the amount is allowed to be withdrawn, it will be difficult to recover the amount in the event the Appeal is allowed and the impugned Judgment and Order is set aside.

5. On due consideration of the submissions advanced in the light of overall facts of the case and the Judgment and Order passed by the Reference Court; I am of the view the passing of following order would meet the ends of justice.

### **ORDER**

[i] Subject to out-come of Appeal, the applicants are permitted to withdraw the amount to the extent of  $1/3^{\text{rd}}$  of the amount deposited by the appellant/acquiring body. The amount be paid to applicant Nos. 1 and 2 by transferring the amount in equal share in their respective savings bank account on furnishing undertaking to the satisfaction of Registrar [Judicial] to the effect that in case Appeal is allowed and the applicants are directed to refund the amount, then the applicants shall deposit the same within twelve weeks from the date of such order.

[ii] After making the payment of  $1/3^{\text{rd}}$  amount, the balance amount be invested in fixed deposit initially for a period of three years with the State Bank of India, High Court branch, Aurangabad with standing instructions to renew the same till further orders from this Court. The interest accrued over the amount invested in fixed deposit shall be paid to the applicants in equal proportion after every three months by transferring the amount in their respective savings bank account till further orders from this Court. The payment of interest shall be subject to out-come of this Appeal.

6. The application disposed of in above terms.

**[V.L.ACHLIYA]**  
**JUDGE**



