

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

CIVIL APPLICATION NO. 4037 of 2018
IN
FIRST APPEAL [STAMP] NO. 32319 OF 2015

Sujabi Motilal Kamal (died)
through legal representatives:-

1-A Motilal s/o Mashim Kamal
and others

.. Applicants

versus

The Executive Engineer,
Osmanabad Minor Irrigation,
Osmanabad and others

.. Respondents

WITH

C.A.NO. 4043/2018 IN FIRST APPEAL [STAMP] NO. 32316/2015
C.A.NO. 4044/2018 IN FIRST APPEAL [STAMP] NO. 32325/2015
C.A.NO. 4040/2018 IN FIRST APPEAL [STAMP] NO. 32328/2015
C.A.NO. 4041/2018 IN FIRST APPEAL [STAMP] NO. 32331/2015

Mr. Kuldeep S. Patil, Advocate for applicants
Mr. B. R. Surwase, Advocate for respondent no.1
Mr. A. M. Phule, Assistant Government Pleader
for respondent no. 2 - State

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

ORDER :

1. Heard learned counsel for parties.
2. While the land acquisition compensation rated granted by special land acquisition officer had been Rs.16,000/- per acre, the same had been enhanced to Rs.25,940/- per acre by reference court.

3. Claimants as well as acquiring body are before this court challenging reference court's award. While major thrust in the first appeals by acquiring body is that compensation comprises also component of rental compensation.

4. In the circumstances, having regard to the fact that acquisition of lands has been of the year 1997, it appears to be expedient, since it is being claimed that had due compensation had been paid at the time of notification itself the applicants – claimants would have been able to create some earning source for themselves and that the family is in dire need of money for their day to day living which has become difficult in the absence of compensation amount, it would expedient to allow withdrawal of seventy five per cent of the amount deposited in this court on following conditions :-

(i) Fifty per cent of the amount deposited along with accruals thereon may be withdrawn by respective applicants on furnishing undertaking to the satisfaction of Registrar (Judicial) to the effect that the amount being withdrawn by them would be paid back / deposited by them in this court within a period of three months from the date of decision in the appeal, if it goes adverse to their interest.

(ii) Further twenty five per cent of deposited amount with accruals thereon may be withdrawn by applicants on furnishing solvent security to the satisfaction of the Registrar (Judicial) of this court.

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

5. Rest of the amount lying deposited in this court may be invested in a nationalized bank earning interest.

6. Civil applications are disposed of.

SUNIL P. DESHMUKH,
JUDGE

pnd