

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CIVIL APPLICATION NO. 4584 OF 2018
IN FAST/3627/2017

LATUR GORAKSHAN SANSTHA, LATUR THR ITS SECRETARY
K.V.RATHI AND ORS
VERSUS
THE EXECUTIVE ENGINEER, M.I.D. OSMANABAD THR G.M.I.D.C.
AURANGABAD

...
Mr. S.S. Rathi, Advocate for applicants
Mr. S.G. Bhalerao, Advocate for respondent no.1
Mr. B.V. Virdhe, AGP for respondents no. 2 and 3
...

CORAM : SUNIL P. DESHMUKH, J.
DATE : 11-04-2018

ORDER :

1. Heard learned counsel for the applicants. He submits that land of the trust has been acquired in acquisition proceedings in the year 1995 and since then, beyond the amount awarded by special land acquisition officer, no further amount has been received by the trust.

2. Learned counsel further submits that with the acquisition of land, their source of earning has been taken away. Lands acquired have been earning income for the trust. Lands were irrigated lands. The trust is maintaining huge herd of cattle

and for its maintenance, lot of expenditure has to be incurred. Besides, he also submits that compensation granted is not in tune with the prevailing market price on the date of notification and the trust is entitled to much more amount than granted under the award of reference court. He, therefore submits that the amount deposited in this court while granting interim relief, be allowed to be withdrawn by them.

3. Learned counsel for the acquiring body - appellant, however, submits that the enhancement in compensation granted by reference court has been enormous and absolutely not adhering to the market conditions. He submits that the evidence will have to be rescanned by this court in first appeal and it would then be evinced that inflated compensation had been granted for acquisition of lands. He further submits on merits that compensation has been granted separately for trees and separately for irrigated lands, which is abhorred by the supreme court. Further granting of interest from the date of possession, is also erroneous in view of the decision of full bench of this court in the case of *State of Maharashtra Vs. Kailash Shiva Rangari* reported in 2016 (3) *Mh.L.J.* 457. Interest on the amount is payable from the date of award having regard to the facts of the case. He, therefore opposes the request.

4. During the course of submissions, learned counsel for the acquiring body states that about 80% amount has been deposited whereas according to learned counsel for the applicant - trust, the amount deposited is less than 50% of the awarded amount.

5. In such a case, it is open for the parties to take up the issue at appropriate stage, in appropriate proceedings.

6. *Although,* submissions are advanced on behalf of the acquiring body as aforesaid, the need expressed by the learned counsel for the applicants during submissions does not appear to be seriously disputed. It is not in dispute that the trust is maintaining herd of cattle and may be requiring expenses.

7. In the circumstances, it may be expedient to allow applicant - trust to withdraw 50% of the deposited amount with accrued interest thereon with following conditions :-

I) 25% of the deposited amount with interest may be withdrawn by applicant on furnishing solvent security to the satisfaction of Registrar (Judicial) of this court.

II) 25% of the deposited amount with interest may be withdrawn by applicant on furnishing undertaking by resolution by trust to the effect that, the amount so withdrawn would be paid back / re-deposited by the trust in this court within a period of three months from date of decision in the appeal, if the same goes against the applicant. Undertaking to be filed within a period of three weeks from today.

8. Civil application is accordingly disposed of.

[SUNIL P. DESHMUKH]
JUDGE

arp/