

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

**CIVIL APPLICATION NO. 5038 OF 2018
IN
FIRST APPEAL NO. 5206 OF 2017**

Padmakar Haribhau Muley and others .. Applicants

Versus

The Administrator, City and Industrial
Development Corporation (CIDCO)
Aurangabad and others .. Respondents

Shri Ajit B. Kale, Advocate h/f Shri V. B. Wayal, Advocate for
Applicants.

Shri A. S. Bajaj, Advocate for the Respondent.

**CORAM : S. V. GANGAPURWALA AND
A. M. DHAVAL, JJ.**

DATE : 13TH APRIL, 2018.

FINAL ORDER :

. The application is made for withdrawal of amount. The reference filed by present applicants has been allowed. The acquiring body/CIDCO has challenged the judgment and award passed by the Reference Court in appeal. Along with appeal, the acquiring body has filed an application for stay. This Court granted stay on condition that the acquiring body deposits 75% of the amount of enhanced compensation awarded by the Reference Court.

2. Mr. Kale, the learned advocate for the applicants/claimants submits that, the Land Acquisition Officer had awarded compensation treating the land as jirayat land. The land is bagayat land. It has fruit bearing trees and the crop pattern also shows that the land is bagayat land. The learned counsel further submits that, sale instances of the same village are relied by the Reference Court while granting compensation. According to the learned counsel reasonable amount of compensation has been awarded by the Reference Court.

3. Mr. Bajaj, the learned counsel for the acquiring body submits that, exorbitant compensation amount has been awarded. The sale deeds relied are in respect of land situated on high way and the land of the applicants is situated about one K.M. away from the high way. The compensation is also awarded for trees and land also. The valuation report is relied of private valuer. The land according to the learned counsel is not a bagayat land.

4. We have considered the submissions canvassed by the learned counsel for respective parties. This Court has directed the acquiring body to deposit 75% of the enhanced compensation. The said order is complied.

5. All the contentions of the respective parties will have to be considered at the time of final disposal of the first appeal. It would be in nobody's interest to keep the amount idle. At the same time interest of the acquiring body also will have to be safeguarded. Equities will have to be adjusted.

6. Considering aforesaid conspectus of the matter, we pass following order.

ORDER

- i) The applicants are allowed to withdraw 25% of the amount deposited in this Court on submitting an undertaking to this Court that, in the event the appeal is allowed and this Court directs the applicants to deposit the amount, the applicants shall deposit the same within a period of one month.
- ii) The applicants are further allowed to withdraw 25% of the amount deposited on furnishing solvent security/surety of the like amount.
- iii) The applicants are further allowed to withdraw 25% of the amount deposited on submitting bank guarantee of any nationalized/scheduled bank.

- iv) The remaining 25% of the amount deposited shall be kept in fixed deposit of any nationalized bank.
- v) The cheques shall be drawn in the name of all applicants and the same be handed over to the GPA holder as would be prayed by applicants.
- vi) The civil applications is disposed of.

[A. M. DHAVAL, J.]

[S. V. GANGAPURWALA, J.]

bsb/April 18