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

**CIVIL APPLICATION NO.7111 OF 2018
IN
FIRST APPEAL NO.3313 OF 2017**

Vishwanath s/o Bapurao Menkudale ..APPLICANT

VERSUS

The State of Maharashtra & ors. ..RESPONDENT

**WITH
CIVIL APPLICATION NO.7112 OF 2018
IN
FIRST APPEAL NO.3294 OF 2017**

Mir Jawadali Mir Akbarali ..APPLICANT

VERSUS

The State of Maharashtra & ors. ..RESPONDENT

**WITH
CIVIL APPLICATION NO.7113 OF 2018
IN
FIRST APPEAL NO.3311 OF 2017**

Sayyad Ghudan Shafiyoddin ..APPLICANT

VERSUS

The State of Maharashtra & ors. ..RESPONDENT

**WITH
CIVIL APPLICATION NO.7114 OF 2018
IN
FIRST APPEAL NO.3298 OF 2017**

Ramrao s/o Tukaram Sarole & anr. ..APPLICANTS

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VERSUS

The State of Maharashtra & ors. ..RESPONDENT

WITH
CIVIL APPLICATION NO.7115 OF 2018
IN
FIRST APPEAL NO.3314 OF 2017

Bhausahab Piraji @ Bapurao Shelke ..APPLICANT

VERSUS

The State of Maharashtra & ors. ..RESPONDENT

WITH
CIVIL APPLICATION NO.7117 OF 2018
IN
FIRST APPEAL NO.3316 OF 2017

Trambak s/o Bapurao Menkudale ..APPLICANT

VERSUS

The State of Maharashtra & ors. ..RESPONDENT

WITH
CIVIL APPLICATION NO.7118 OF 2018
IN
FIRST APPEAL NO.3312 OF 2017

Anil s/o Santram Bodke ..APPLICANT

VERSUS

The State of Maharashtra & ors. ..RESPONDENT

WITH
CIVIL APPLICATION NO.7119 OF 2018
IN
FIRST APPEAL NO.3295 OF 2017

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Bapu s/o Mahadu Bhinge (died),
through his Lrs.

Tukaram s/o Bapurao Bhinge & ors. ..APPLICANTS

VERSUS

The State of Maharashtra & ors. ..RESPONDENT

WITH
CIVIL APPLICATION NO.7120 OF 2018
IN
FIRST APPEAL NO.3299 OF 2017

Kalyan s/o Bhimrao Menkudale ..APPLICANT

VERSUS

The State of Maharashtra & ors. ..RESPONDENT

WITH
CIVIL APPLICATION NO.7121 OF 2018
IN
FIRST APPEAL NO.3296 OF 2017

Shaikh Abdulla Shaikh Alisab ..APPLICANT

VERSUS

The State of Maharashtra & ors. ..RESPONDENT

WITH
CIVIL APPLICATION NO.7122 OF 2018
IN
FIRST APPEAL NO.3315 OF 2017

Ashok s/o Santram Bodke ..APPLICANT

VERSUS

The State of Maharashtra & ors. ..RESPONDENT

WITH

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**CIVIL APPLICATION NO.7123 OF 2018
IN
FIRST APPEAL NO.3297 OF 2017**

Madhav s/o Bhimrao Menkudale ..APPLICANT

VERSUS

The State of Maharashtra & ors. ..RESPONDENT

**WITH
CIVIL APPLICATION NO.7124 OF 2018
IN
FIRST APPEAL NO.3293 OF 2017**

Nasroddin s/o Ajimsab Shaikh ..APPLICANT

VERSUS

The State of Maharashtra & ors. ..RESPONDENT

**WITH
CIVIL APPLICATION NO.7125 OF 2018
IN
FIRST APPEAL NO.3317 OF 2017**

Shaikh Afsar Shaikh Yusufoddin ..APPLICANT

VERSUS

The State of Maharashtra & ors. ..RESPONDENT

Mr V.D. Sapkal, Advocate holding for Mr L.C. Patil, Advocate for applicants;
Mr A.S. Shinde, A.G.P. for respondent no.1 & 2;
Mr S.V. Kurundkar, Advocate for respondent no.3

**CORAM : PRASANNA B. VARALE
AND
S. M. GAVHANE, JJ.**

DATE : 26th June, 2018

ORAL ORDER:

Heard Mr Sapkal, learned Counsel appearing on behalf of the applicants; learned Asstt. Govt. Pleader on behalf of respondent no.1 & 2 and Mr Kurundkar, learned Counsel on behalf of respondent no.3.

2. These are the applications praying for withdrawal of the amount deposited by the appellants in this Court.

3. Mr Sapkal invited our attention to the orders passed by this Court. By order dated 11th August, 2017, the appeals are admitted. The appellants in bunch of applications prayed for stay of the operation of the impugned judgments and awards passed by the learned Reference Court, dated 31st December, 2014. The Division Bench of this Court on 27th September, 2017 recorded the submissions and the counter submissions of the learned Counsel appearing for the respective parties. It was submitted before this Court by the applicants-appellants while praying for stay that the Reference Court has enhanced the compensation amount exorbitantly and contrary to the evidence on record. The Division Bench then stated that the Counsel for the applicants submits that in another Land Acquisition Reference bearing No.882 of 2008, the

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Reference Court has awarded a lesser amount in respect of the identical plots. Per contra, the Counsel for the applicants submitted that the order of the Reference Court is passed on proper appreciation of the evidence i.e. oral and documentary evidence produced by the claimants as well as by the acquiring body. It was also submitted before this Court by the Counsel appearing for the claimants that the order passed by the Reference Court is in the nature of a money decree and as such this Court can grant interim order of stay subject to directing the appellants to deposit the entire amount of awards with interest. The Division Bench was then pleased to observe that these rival contentions of the parties can be considered by this Court at the stage of final hearing or as and when applications for withdrawal are made by the claimants, upon depositing the amount in this Court by the appellants in compliance of the order of this Court. The applications for stay were allowed subject to deposit of the entire amount of impugned awards with interest, within stipulated period of twelve weeks from the date of the order of this Court. The claimants were permitted to submit applications for withdrawal.

4. Mr Sapkal submitted that the lands of the applicants were acquired in the year 2006. These lands were the only source of livelihood of these claimants-applicants. He then submitted that the

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Division Bench of this Court permitted the applicants for filing applications seeking withdrawal of the amount and as the applicants are in dire need of financial assistance, they are before this Court seeking withdrawal of the amount.

5. Per contra, Mr Kurundkar vehemently opposed the applications. He invited our attention to paragraph 19 of the judgment and order of the Reference Court. Needless to state that this was the very submission before this Court while the Court passed the order on 27th September, 2017. At the cost of repetition we state that the Division Bench in paragraph 2 of the order referred to the very submissions that the Reference Court in identical situation and having the identical quality of the land in one bunch of the References awarded the compensation at the rate of Rs.12 Lakhs per Hectare, whereas in the other bunch of References the amount is awarded treating the said lands being of a commercial exploitation and awarding the rate at Rs.1.50 per Sq. ft. Now, this was the ground of opposition which was considered by this Court and the Court thought it fit to deal with this counter submission at the time of final hearing of the appeals.

6. Today, the applicants are before us praying for withdrawal of the amount. The fact that the lands are acquired in the year 2006 is

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not in dispute. In our opinion, considering the prayer of the applicants for withdrawal of the amount on the ground that they are in need of financial assistance, the applications can partly be allowed by permitting the applicants to withdraw 25% of the amount deposited in this Court by the appellants. This exercise, in our opinion, would meet the ends of justice.

7. The applicants are permitted to withdraw 25% of the amount deposited by the appellants in this Court, subject to submitting an undertaking in this Court that in case the appellants succeed in appeals, the applicants would return back the amount withdrawn by them to the appellants.

8. While disposing of the applications, we further make it clear that the applicants are at liberty to approach this Court for the similar prayer of withdrawal of the amount, in case such a ground is raised by way of the fresh applications. Needless to state that if such applications are filed, the same would be considered on their own merits.

9. Civil Applications are disposed of accordingly.

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10. Mr Kurundkar prays for calling of record & proceedings in view of admission of the appeals. Office to call record & proceedings. The appellants are at liberty to pray for early hearing of the appeals.

11. At this stage, Mr Kurundkar prayed for stay to the order passed by this Court permitting the applications to withdraw 25% of the amount deposited by the appellants. The prayer is rejected.

(S. M. GAVHANE, J.)

(PRASANNA B. VARALE, J.)

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