

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

952 CIVIL APPLICATION NO.7891 OF 2018

IN

FIRST APPEAL NO.2405 OF 2016

WITH

FIRST APPEAL NO. 2405 OF 2016

CA/612/2015 IN FA/2405/2016

CA/3851/2018 IN FA/2405/2016

CA/3847/2018 IN FA/2405/2016

CA/3852/2018 IN FA/2405/2016

CA/3850/2018 IN FA/2405/2016

CA/7892/2018 IN FA/2405/2016

WITH FA/2403/2016

CA/608/2015 IN FA/2403/2016

CA/3838/2018 IN FA/2403/2016

GANGADHAR NAGNATH MAIRAN (DIED)
BASAVESHWAR (DIED) THR LRS ROHINI
AND ORS

..Applicants

VERSUS

THE EXECUTIVE ENGINEER
MINOR IRRIGATION DIVISION,
OSMANABAD AND ANR

..Respondents

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Advocate for Applicants : Shri V.S. Tanwade;

Advocate for Respondent No.1 : Shri S.G. Sangle;

AGP for Respondent No.2 : Ms. S.S. Raut;

Advocate for Respondent No.8 : Shri R.V. Naiknavare.

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CORAM : PR. BORA, J.

Dated: September 05, 2018

PER COURT :

1. Heard the learned Counsel for the applicants and the learned Counsel appearing for the Acquiring Body.

2. The applicants are seeking permission to withdraw the entire amount as has been deposited by the Acquiring Body in this Court in satisfaction of the Awards impugned in the present appeals.

3. Shri Tanwade, the learned Counsel appearing for the applicants submitted that, the reference Court has awarded in fact the less amount than expected by the applicants. In the circumstances, the learned Counsel has prayed for permitting the withdrawal of the entire amount.

4. Shri Sangle, learned Counsel appearing for the Acquiring Body, however, has strongly opposed for permitting any such withdrawal. The learned Counsel submitted that, the hike given by the reference Court in the market value is arbitrarily given without any cogent evidence therefor. The learned Counsel submitted that, when the SLAO had offered the compensation at the rate of Rs.55,000/- per hectare, the reference Court has enhanced it to Rs.27 per Sq. Feet. The learned Counsel submitted that, the reference Court has also

committed error in awarding interest from the date of Section 4 notification and there are several other aspects, which required to be considered by this Court. The learned Counsel, in the circumstances, prayed for hearing the matters finally. In the alternative, the learned Counsel submitted that, at the most 25% of the amount can be permitted to be withdrawn by the applicants.

5. After having considered the submissions made by the learned Counsel and on perusal of the impugned Judgment as well as the grounds of objections raised in exception to the awards passed in the present matter, I deem it appropriate to pass the following order.

ORDER

(i) The applicants are permitted to withdraw 40% of the total amount deposited by the Acquiring Body in this Court on submitting undertaking to the satisfaction of the Registrar of this Court.

(ii) The balance amount be invested in Fixed Deposit Receipt in any nationalized Bank initially for the period of one year, and if so required, for further period till disposal of the

appeal.

(iii) The Registry to consider the request for issuing separate cheques as per the apportionment done by the reference Court.

(iv) All Civil Applications for withdrawal of the amount stand disposed of.

6. The record and proceedings is received in the matter.

7. List the matter for final disposal on 04.10.2018.

(P.R. BORA, J.)

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