

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

913 CIVIL APPLICATION NO. 8400 OF 2018
IN
FIRST APPEAL NO. 2173 OF 2016

ARVIND S/O VISHWANATH SHINGADE
DIED – THR. L.RS.
VERSUS
THE EXECUTIVE ENGINEER I.P.S. DIVISION
OSMANABAD & ORS.

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Mr. R.K.Temkar, Advocate for Applicant.
Mr. G.B.Rajale, Advocate for R – 1.
Mrs. S.S.Raut, A.G.P. for R – 2.

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CORAM : K.K.SONAWANE, J.
DATE : 5th JULY, 2018

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ORAL ORDER :

1. Heard learned counsel for the applicants and Mr. Rajale, learned counsel for the respondent acquiring body.
2. Perused the application and the impugned Judgment and Award passed by the trial Court. Admittedly, the Land Acquisition Officer has offered compensation ranging from Rs. 430 to 520 per R. for dry land. However, appreciating the evidence on record, the learned Reference Court arrived at the conclusion that the lands under acquisition are seasonally irrigated/bagayat land and awarded Rs. 8,887/- per R. for perennially irrigated land, Rs. 6,666/- per R. for seasonally irrigated land and Rs. 2,220/- per R. for Pot Kharab land.
3. Apparently, it is evident that the learned Reference Court awarded compensation more than four times of the market value determined by the Land Acquisition Officer. In such

circumstances, it would not just and proper to allow the claimants for withdrawal of entire decretal amount. However, as agricultural lands of the claimants were acquired for public purposes, it would reasonable to allow the applicants/claimants for withdrawal of some of the part of compensation amount deposited by the acquiring body in this Court. Definitely, it would sub-serve the purpose in the interest of justice.

4. Accordingly, the application stands partly allowed. The applicants/claimants are permitted to withdraw 50% of the total amount of compensation deposited by the acquiring body in this Court, with interest accrued thereon subject to condition that the applicants shall furnish an undertaking to this Court that they would refund the amount so withdrawn in case of any contingency arises in the appeal. The applicants are further allowed to withdraw 25% of the rest of the balance amount along with interest accrued thereon, on furnishing solvent surety/security of like amount, to the satisfaction of the Registrar [Judicial] of this Court. The remaining balance decretal amount be deposited in any nationalized bank in a fixed deposit receipt initially for a period of two years or till decision of the appeal whichever is earlier, with liberty to renew the fixed deposit receipt, if required.

5. The application is accordingly disposed of.

[K.K.SONAWANE]
JUDGE