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

**CIVIL APPLICATION NO.8790 OF 2018
IN
FIRST APPEAL NO.2664 OF 2016
WITH
CIVIL APPLICATION NO.4565 OF 2018**

Sayyad Ghudan Shaffiuddin,
Age: 65 years, Occu: Agril.,
R/o. Ahmedpur Taluka Ahmedpur,
District Latur

..APPLICANT

VERSUS

The State of Maharashtra,
through the Collector, Latur & ors.

..RESPONDENTS

**WITH
CIVIL APPLICATION NO.8794 OF 2018
IN
FIRST APPEAL NO.2669 OF 2016
WITH
CIVIL APPLICATION NO.4570 OF 2018**

Deepak s/o Dattatraya Hiware,
Age: 39 years, Occu: Agril.,
R/o. Ahmedpur Taluka Ahmedpur,
District Latur

..APPLICANT

VERSUS

The State of Maharashtra,
through the Collector, Latur & ors.

..RESPONDENTS

**WITH
CIVIL APPLICATION NO.8797 OF 2018
IN
FIRST APPEAL NO.2668 OF 2016
WITH
CIVIL APPLICATION NO.4569 OF 2018**

(2)

Ravi s/o Govind Hiware,
Age: 38 years, Occu: Agril.,
R/o. Ahmedpur Taluka Ahmedpur,
District Latur

..APPLICANT

VERSUS

The State of Maharashtra,
through the Collector, Latur & ors.

..RESPONDENTS

WITH
CIVIL APPLICATION NO.8798 OF 2018
IN
FIRST APPEAL NO.2670 OF 2016
WITH
CIVIL APPLICATION NO.4571 OF 2018

Ram s/o Govind Hiware,
Age: 78 years, Occu: Agril.,
R/o. Ahmedpur Taluka Ahmedpur,
District Latur

..APPLICANT

VERSUS

The State of Maharashtra,
through the Collector, Latur & ors.

..RESPONDENTS

WITH
CIVIL APPLICATION NO.8799 OF 2018
IN
FIRST APPEAL NO.2665 OF 2016
WITH
CIVIL APPLICATION NO.4566 OF 2018

1. Manmath s/o Yadhav Shivpuje,
Age: 55 years, Occu: Agril.

2. Prabhakar s/o Yadhav Shivpuje,
Age: 72 years, Occu: Agril.

R/o. Ahmedpur Taluka Ahmedpur,
District Latur

..APPLICANTS

VERSUS

(3)

The State of Maharashtra,
through the Collector, Latur & ors.

..RESPONDENTS

WITH
CIVIL APPLICATION NO.8800 OF 2018
IN
FIRST APPEAL NO.2667 OF 2016
WITH
CIVIL APPLICATION NO.4568 OF 2018

Govind s/o Dattatraya Hiware,
Age: 32 years, Occu: Agril.,
R/o. Ahmedpur Taluka Ahmedpur,
District Latur

..APPLICANT

VERSUS

The State of Maharashtra,
through the Collector, Latur & ors.

..RESPONDENTS

WITH
CIVIL APPLICATION NO.8801 OF 2018
IN
FIRST APPEAL NO.2666 OF 2016
WITH
CIVIL APPLICATION NO.4567 OF 2018

Kiran s/o Ramrao Hivare,
Age: 45 years, Occu: Agril.,
R/o. Ahmedpur Taluka Ahmedpur,
District Latur

..APPLICANT

VERSUS

The State of Maharashtra,
through the Collector, Latur & ors.

..RESPONDENTS

Mr G. K. Sontakke, Advocate for applicants;
Mr S. S. Dande, A.G.P. for respondent Nos.1 and 2;
Mr S. G. Bhalerao, Advocate for respondent No.3

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

DATE : 27th July, 2018

ORAL ORDER:

Heard Mr Sontakke, learned Counsel appearing on behalf of the applicants .

2. It is not in dispute that a bunch of seven first appeals is filed in this Court at the instance of the acquiring body i.e. Godavari Marathwada Irrigation Development Corporation, Aurangabad and the applicants in the present applications are the original claimants.

3. Learned Counsel appearing on behalf of applicants invited our attention to the order dated 27th September, 2017, passed by the Division Bench of this Court. Perusal of the said order shows that the bunch of applications was filed by the acquiring body, praying for interim order in the nature of stay of the operation of judgments and awards in Land Acquisition References, passed by the learned Civil Judge Senior Division, Ahmedpur.

4. The Division Bench of this Court, on consideration of the rival submissions of the parties was of prima facie opinion that the compensation awarded to the lands acquired was on the lower side. The Division Bench then also made it clear that the assessment of the merits would be an exercise to be undertaken at the stage of final hearing/disposal of the

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appeals. While observing these facts, the Division Bench of this Court allowed the applications on condition i.e. directing the applicant - acquiring body and the State Government to deposit the entire awarded sum with interest in this Court within a stipulated period of twelve weeks from the date of the order.

5. Our attention is also invited to the subsequent order of this Court, wherein certain modifications in the aforesaid order were sought for. This was by way of correction in the status of the parties' name and the correction to a statement, wherein erroneously it was stated the ready reckoner rate as Rs.54,32,000/- per Hector, instead of Rs. 63 per Are land.

6. Learned Counsel for the applicants then invited our attention to the order dated 26th June, 2018, passed by us in a bunch of applications. He submitted that these applications are also similarly circumstanced and as such, prays for passing the similar order, thereby permitting the applicants to withdraw the amount.

7. The prayer for withdrawal is opposed by the learned Counsel appearing on behalf of the acquiring body on the ground that the appeals are ripe for hearing and this Court may direct the office to place the appeals for final hearing disposal in near future by giving a fixed date.

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8. The applications are also opposed by Mr Dande, learned A.G.P. appearing for respondent Nos.1 and 2 submitting that as per the instructions received by him, a Special Leave Petition is pending before the Hon'ble the Apex Court. He then submitted that the State Government, by way of special allocation of funds made available the amount so as to deposit the same in this Court in compliance of the order of this Court, subject to the final outcome of the proceedings in the Hon'ble the Apex Court.

9. Though the learned Counsel appearing for acquiring body and the learned A.G.P. opposed the applications, we see no reason to take a different view than the view that we have taken in the order dated 26th June, 2018.

10. We permit the applicants to withdraw the part of the amount. We are of the opinion that by an exercise of undertaking of the applicants, no prejudice is going to cause to the other side. The order is passed by directing the applicants to submit an undertaking in this Court that if the appellants succeed in the appeals, the applicants would return back the amount withdrawn by them, to the appellants.

11. Thus, we are of the clear opinion that while permitting the applicants to withdraw the amount, the applicants are also directed to submit their undertaking, thereby the interest of the acquiring body as well as the State is protected.

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12. Considering above referred facts, the applicants are permitted to withdraw 25% of the amount deposited in this Court by the State Government, subject to undertaking that in case, if the appellants succeed in appeals, the applicants would return back the amount withdrawn by them, to the appellants.

13. With the above referred directions, civil applications for withdrawal of amount are disposed of.

14. In view of the fact that the applications filed by the applicants are allowed and the applicants are permitted to withdraw the part amount of the amount deposited in this Court by the State Government, the applications seeking transposition of parties have been rendered infructuous. As such the said applications are disposed of accordingly.

15. In view of the submission of the learned Counsel appearing on behalf of acquiring body as well as learned A.G.P. that the appeals are ripe for hearing and final disposal, the appellants are permitted to pray for early hearing of the appeals.

(S. M. GAVHANE, J.)

(PRASANNA B. VARALE, J.)

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