

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CIVIL APPLICATION NO. 3968 OF 2018
IN FA/1117/2013

SHANKAR PUNDALIKRAO KOTHALKAR
VERSUS
THE STATE OF MAHARASHTRA AND ORS

WITH
CIVIL APPLICATION NO. 3969 OF 2018
IN FA/1092/2013

PRABHAKAR PUNDALIKRAO KOTHALKAR
VERSUS
THE STATE OF MAHARASHTRA AND ORS

WITH
CIVIL APPLICATION NO. 3970 OF 2018
IN FA/1154/2013

SARUBAI DAULAT KOTHALKAR
VERSUS
THE STATE OF MAHARASHTRA AND ORS

WITH
CIVIL APPLICATION NO. 3984 OF 2018
IN FA/1116/2013

DEVIDAS DAULAT KOTHALKAR
VERSUS
THE STATE OF MAHARASHTRA AND ORS

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Mr. Swapnil S. Patunkar, Advocate for applicants in all CAs
Mr. B.V. Virdhe, Mr. A.M. Phule, Mr. S.P. Deshmukh and Mr. K.N.
Lokhande, AGPs for respondent-State
Mr. S.B. Deshpande, Advocate for respondent no.3 in all CAs

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CORAM : SUNIL P. DESHMUKH, J.
DATE : 06-04-2018

ORDER :

1. These applications are for withdrawal of amount by claimants whose lands having fruit bearing trees were acquired way back in 1992. Half amount of compensation under award of reference court had been deposited in this court while the entire amount of compensation had been directed to be deposited by division bench of this court vide order dated 05-07-2013. Said half of the amount along with interest has been withdrawn by the claimants i.e. 25% on furnishing undertaking and 25% on furnishing solvent security.

2. Balance of 50% amount remaining to be deposited pursuant to order of division bench of this court, appears to have been subsequently deposited and the claimants are before this court seeking withdrawal stating that their earning source has been lost.

3. Learned counsel of applicants submits that the lands had been earning cash income. Grape plantation and mango trees were there. With the loss of lands, earning source has been lost and they are, as such, in need of the amounts to keep up their day to day needs and education of children.

4. Learned counsel for appellants in first appeals - Mr. S.B. Deshpande submits that hike in the compensation in respect of fruit bearing trees has been rather too steep and the evidence may not support enhancement granted by reference court. The applicants have already withdrawn half of the amount with interest thereon. In the circumstances, withdrawal sought under the present applications may not be indulged into.

5. However, looking at that, the lands of applicants have been acquired in 1992, and applicants are deprived of earning source and half of the amount had not been deposited initially pursuant to order of division bench of this court and as the same has subsequently been deposited, it appears expedient to allow applicants to withdraw half of the amount from the amount now deposited in this court, on furnishing solvent security to the satisfaction of Registrar (Judicial) of this Court. Balance of half of amount now deposited, however, be invested in fixed deposit of a nationalized bank.

6. Civil Applications accordingly are allowed and are disposed of.

[SUNIL P. DESHMUKH]
JUDGE

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