

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

**CIVIL APPLICATION NO. 5647 OF 2018
IN FIRST APPEAL (STAMP) No. 12587 of 2016**

Kakasaheb Ramkrushna Patil and others **...APPLICANTS**

VERSUS

The Executive Engineer and another **...RESPONDENTS**

Mr Ajeet B. Kale, Advocate for applicants

Mr D.B. Pawar, Advocate for respondent No.1.

Mr Shashibhushan P. Deshmukh, Asstt. Govt. Pleader for R.No.2

CORAM : SUNIL P. DESHMUKH, J.

DATE : 27th April 2018

ORDER :

Heard learned counsel for the parties.

2. It emerges that land admeasuring two hectares owned by applicants has been acquired by respondents/appellants in respect of which award had been passed by the Special Land Acquisition Officer in the year 2001 granting compensation to claimants at the rate of Rs. 510/- per Are and had not granted anything in respect of trees standing thereon. The Reference Court has enhanced compensation to Rs. 728/- per Are and has granted compensation to the tune of Rs. 5,54,492/- in respect of trees standing thereon.

3. Learned Counsel for applicants submits that respondent/State has deposited only 50% of the amount awarded by the Reference Court. Had determined compensation amount in Land Acquisition Reference been paid to applicants immediately on acquisition, they would have been in a position to create alternate source of income. The acquired land was only source of income for their livelihood. Their income has been drastically affected due to acquisition of the land and their livelihood is at stake. In the circumstances, they are in dire need of amount for day to day expenses. It is therefore, urged that applicants be allowed to withdraw amount deposited pursuant to the order of this Court.

4. Learned Assistant Government Pleader, however, submits that enhancement in compensation amount by the Reference Court is on higher side than the rate awarded by the Special Land Acquisition Officer. The evidence on record may not bear such enhancement. He therefore, urges not to allow applicants to withdraw entire amount deposited in this Court.

5. Looking at the reasons in the application, need of the family of applicants and other aspects having not been seriously disputed and only fifty per cent of the total award amount is

deposited, it would be expedient to allow applicants to withdraw fifty per cent of total award amount deposited in this Court with interest accrued thereon. As such, applicants may withdraw entire fifty per cent of total award amount deposited in this Court with interest accrued thereon, on furnishing undertaking that the amount so withdrawn would be paid back / re-deposited by them in this Court within a period of three months from date of decision in the appeal, if the same goes against applicants. Undertaking to be filed within a period of four weeks from today.

6. Civil Application is, accordingly, disposed of in above terms.

**(SUNIL P. DESHMUKH)
JUDGE.**

Madkar