

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CIVIL APPLICATION NO. 14981 OF 2017

IN

FIRST APPEAL NO. 344 OF 2014

Vithal s/o Sonaji Kulkarni ...Applicant

Versus

The State of Maharashtra
Through The Collector, Osmanabad
& others ...Respondents

...
Mr. C. R. Deshpande, Advocate for applicant.
Mr. A. D. Namde, AGP for respondents no. 1 and 2.

...
[CORAM: SUNIL P. DESHMUKH, J.]
Date: 6th April, 2018

ORDER :

1. Heard learned counsel for the parties.
2. Learned counsel for applicant-claimant Mr. C. R. Deshpande submits that applicant is 84 years of age. The land out of survey no. 256, admeasuring 80 aar situated within the limits of Municipal Council, Osmanabad has been acquired by the respondents way back in 1991. He submits that as a matter of fact, claimant-applicant demanded enhancement in compensation at a higher rate for his acquired land, however, reference court had granted compensation only at the rate of Rs. 11/- per square foot. He further states that the applicant-claimant is in dire need of money.

3. Learned Assistant Government Pleader states that the enhancement in compensation granted is excessive and there has been enormous increase in aggregate award amount of the acquired land. He further submits that the compensation has been granted on square foot basis rather than on acreage.

4. However, looking at the circumstances that the land of the applicant has been acquired in 1991 and he has lost possession long back and since then beyond the compensation under award by the Special Land Acquisition Officer, no further amount has been paid to the applicant-claimant and the applicant-claimant claims that his income source is affected. Ends of justice can be met with by letting the applicant/claimant to withdraw the amount deposited in this court.

5. In view of aforesaid, it would be expedient to allow the applicant-claimant to withdraw the amount deposited in this court on the following conditions:

- i) Applicant-claimant is allowed to withdraw 50% of the amount deposited in this court along with interest accrued thereon, on condition of furnishing undertaking that applicant-claimant

shall pay back / deposit the amount, being withdrawn under this order within a period of three months from the date of decision in appeal, if the decision goes adverse to his interest.

ii) Further 25% of the amount is allowed to be withdrawn by the applicant-claimant subject to furnishing solvent surety to the satisfaction of Registrar (Judicial) of this court.

iii) Rest of 25% amount is allowed to be withdrawn on furnishing continuing bank guarantee, till disposal of appeal, of a nationalized bank.

6. Civil application accordingly stands disposed of

[SUNIL P. DESHMUKH, J.]