

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CIVIL APPLICATION NO.2732 OF 2019

IN

FIRST APPEAL (STAMP) NO.28127 OF 2015
(Ishwarrao Venkatrao Patil Vs. Executive Engineer,
Medium Project Division, Nanded and another)

AND

CIVIL APPLICATION NO.2733 OF 2019

IN

FIRST APPEAL (STAMP) NO.28277 OF 2015
(ISHWARRAO Venkatrao Surnar (Patil) Vs. Executive
Engineer, Medium Project Division, Nanded and another)

AND

CIVIL APPLICATION NO.2734 OF 2019

IN

FIRST APPEAL (STAMP) NO.28130 OF 2015
(Venkatrao Gunderao Patil (Died) through L.Rs.
Ishwarrao Vs. Executive Engineer, Medium Project
Division, Nanded and another)

Mr. N.P. Patil-Jamalpurkar, Advocate for the
applicants

Mr. R.C. Patil, Advocate for respondent No.1

Mr. B.V. Virdhe, A.G.P. for the respondent/State

CORAM : SUNIL K. KOTWAL, J.

DATE : 7th JUNE, 2019

ORDER :

Three separate appeals have been filed by the
Acquiring Body against three judgments and awards
passed by the Joint Civil Judge, Senior Division,

Kandhar in Land Acquisition Reference (LAR) Nos.498/2003, 428/2003 and 420/2003. In these three appeals, as per direction of this Court, the compensation amount is deposited by the appellant/ Acquiring Body with accrued interest thereon.

2. Present three Civil Applications are filed by the original claimants for withdrawal of the compensation amount.

3. Heard Shri N.P. Patil Jamalpurkar, learned counsel for the applicants/claimants, Shri R.C. Patil, learned counsel for respondent No.1 – Acquiring Body and learned A.G.P. for the State.

4. Though learned counsel for the applicants submits that the Acquiring Body has deposited compensation amount with accrued interest thereon only upto the date of passing of the award by the Reference Court, at this stage, that controversy needs no determination. Learned counsel for the applicants submits that the applicants are waiting for payment of compensation amount since last number of years and in

view of the judgments and awards, the applicants have right to withdraw the compensation amount with accrued interest thereon.

5. Learned counsel for the Acquiring Body vehemently opposed these applications on the ground that interest under Sections 28 and 34 of the Land Acquisition Act has been erroneously awarded from the date of publication of notification under Section 4 (1) of the Act, instead of from the date of passing of the award. He has also raised objection regarding grant of compensation for the trees standing over the acquired land by pointing out certain observations of the Reference Court. He submits that the area covered by the trees should have been excluded while determining the compensation for the acquired land.

6. After hearing learned counsel for both the parties at length, I must make it clear that at this premature stage, I am not expected to express anything on merits of the matter. However, certainly I have taken note regarding the mistake committed by the Reference Court, while awarding the interest on compensation amount from the date of publication of

notification under Section 4(1) of the Act. Other merit of the matter needs no consideration for deciding the present applications.

7. Though learned counsel for the Acquiring Body has drawn my attention towards order of the Division Bench of this Court in Civil Application No.15525/2013 in First Appeal No.2649/2013, at present, it is difficult to ascertain whether this order pertains to connected matter. However, after giving certain importance to the apparent mistake committed by the Reference Court, I allow the applicants to withdraw only 50% amount of compensation with accrued interest thereon from out of the entire deposited amount of compensation. The applicants shall furnish bank guarantee for 25% amount and solvent security for remaining 25% amount to the satisfaction of the Registrar (Judicial) of this Court, for the 50% amount now permitted to be withdrawn.

8. The balance 50% amount of the deposited compensation amount shall be invested in fixed deposit in any Nationalized Bank till final hearing of the appeals.

9. The Registrar (Judicial) to act accordingly.
10. The Civil Applications are allowed accordingly and disposed of.

[SUNIL K. KOTWAL]
JUDGE

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