

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

926 CIVIL APPLICATION NO.3784 OF 2019

IN
FAST/15514/2015
WITH
CA/7920/2015
IN
FAST/15514/2015
WITH
CA/7921/2015
IN
FAST/15514/2015

VILAS DUDHAJI PATIL AND ANR.
VERSUS
EXECUTIVE ENGINEER, LOWER TERNA CANAL
DIVISION NO.2, LATUR UNDER GMIDC
AURANGABAD

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Mr. A.V.Patil, Advocate for Applicants.

Mr. B.R.Surwase, Advocate for R – 1.

Mr. P.M.Kulkarni, A.G.P. for R – 2.

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CORAM : V.L.ACHLIYA, J.

DATE : 12/04/2019

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ORAL ORDER :

1. The applicant/claimant has moved this application seeking withdrawal of Rs. 14,27,763/- together with interest accrued thereon deposited by the appellant/acquiring body.

2. Heard learned counsel for applicants and learned A.G.P. for State.

3. In brief, it is the contention of learned counsel for applicant that the land admeasuring 2 H. 93 R. from S.No. 72 and land admeasuring 64 R. from S.No. 81 situated at village Makani, Taluka Omerga, District Osmanabad were acquired for quarry work of Lower Terna Project camp building. The process of acquisition was initiated by way of notification u/s 4 of the Land Acquisition Act in the year 1984 and the possession of the land was taken in 1984 itself. The Special Land Acquisition Officer has awarded compensation @ Rs. 3,160/- per Acre. The applicant has claimed compensation @ Rs. 20/- per sq. ft. The reference Court awarded compensation @ Rs. 10,638 per Acre with consequential benefits and interest in terms of award. It is submitted that the applicants are deprived of the fruits of litigation since last more than 20-25 years. Although the award was passed in the year 2009, the compensation is yet to be received by the applicants towards the land acquired. It is further submitted that the applicants have filed First Appeal No. 2250/2012 against the Judgment and award and the same has been admitted by this Court vide order dated 04/03/2013.

4. Learned A.G.P. present for respondent No. 2. Learned counsel representing acquiring body is absent.

5. I have carefully considered the submissions

advanced in the light of award passed. The Special Land Acquisition Officer has awarded compensation @ Rs. 3,160/- per Acre which was found to be inadequate by the reference Court and the same has been enhanced to Rs. 10,632/- per Acre. The enhancement appears to be based on due consideration of evidence adduced in the matter. The acquisition of the land was initiated in the year 1984. The applicants are deprived of the fruits of litigation since last more than 25 years.

6. In the facts and circumstances of the case, passing of following order would meet the ends of justice. Hence, the following order.

ORDER

[i] Subject to out-come of appeal, the applicants are permitted to withdraw the amount to the extent of 60% on furnishing undertaking to the effect that in the event award is set aside and the order is modified, the applicants shall re-deposit the amount received within eight weeks from the date of order.

[ii] After paying the amount to the extent of 60%, the balance amount be deposited in fixed deposit initially for a period of 28 months with standing instructions to renew the investment made in fixed

deposit on its maturity till final disposal of the appeal.

[V.L.ACHLIYA]
JUDGE

KNP.