

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

BENCH AT AURANGABAD

CIVIL APPLICATION NO. 2511 OF 2019

IN

FIRST APPEAL NO. 408 OF 2018

WITH CIVIL APPLICATION NO. 2513/ 2019

IN

FIRST APPEAL NO. 406 OF 2018

WITH

CIVIL APPLICATION NO. 2515 OF 2019

IN

FIRST APPEAL NO. 405 OF 2018

WITH

CIVIL APPLICATION NO. 2810 OF 2019

IN

FIRST APPEAL NO. 407 OF 2018

1. Narshing S/o Arjun Kawale [(died)]
Through Lrs.
1. Rukmaji S/o Narshing Kawale (died)
Through Lrs.
- 1-A Tulsabai W/o Rukmaji Kawale,
Age : 68 Years, Occ. Agricultural
2. Arjun S/o Narshing Kawale
Age : 65 Years, Occ. Agricultural
3. Baliram S/o Narshing Kawale
Age : 55 Years, Occ. Agricultural
4. Venkat S/o Narshing Kawale
Age : 46 Years, Occ. Agricultural
5. Manohar S/o Narshing Kawale
Age : 42 Years, Occ. Agricultural

All R/o. Kava Taluka and District
Latur.

..APPLICANTS

VERSUS

1. The State of Maharashtra,
Through the Collector, Latur

2. The Executive Engineer,
Minor Irrigation Division,
At Latur.

..RESPONDENTS

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Advocate for the applicants : Mr. G. K. Sontakke
A.G. P for respondent-State : Mr. A.V. Deshmukh

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CORAM : T.V. NALAWADE AND
SUNIL K. KOTWAL, JJ
DATE : 20th FEBRUARY, 2019.

ORDER :-

All Civil Applications are filed by the applicants-original claimants for permission to withdraw the compensation amount deposited by the respondent No.2, the acquiring body.

2. Heard both the sides.
3. This Court has seen the record.
4. The rate which is fixed by the Special Land Acquisition Officer was between the rate of Rs. 430/- and Rs. 1,000/- per Are (i.e. Rs. 43,000/- and 1,00,000/- per hector). The reference Court has given the rate of Rs. 28 per square feet on the basis of the previous decision given by the reference Court in reference L.A.R. No.. 638 of 1998. It appears that in that matter around 60% deduction was accepted and after that the rate was given per square feet by the reference Court. The submissions made show that the said decision of the reference Court viz. L.A.R. No. 638/1998 is yet not challenged by the acquiring body but the learned counsel for the acquiring body submitted that they are interested to challenge that decision only on the point of rate of interest. Thus the department has no intention to challenge the rate itself which

was fixed in L.A.R No. 638 of 1998. The land which was acquired in that proceeding was also from same village Kava and for the same project. In view of this circumstances and circumstances that the rate came to be increased to make it around Rupees 2.8 Lakh per Are by the reference Court, this Court holds that 75% of the amount deposited by the respondent No.2 can be allowed to be withdrawn subject to some conditions. The remaining 25% amount be kept with the Court, considering the possibility of success of the respondents in the present matter. In the result, all the applications are partly allowed. Out of the amount which is 100% amount of enhanced compensation deposited with this Court, 75% amount is allowed to be withdrawn subject to following conditions.

5. 50% of the amount which is allowed to be withdrawn is to be given after giving own undertaking by the claimant and remaining 50% amount is to be given on furnishing either Bank Guarantee or solvent surety. All the applications are allowed in aforesaid terms. The remaining amount is to be kept in the Nationalized Bank in Fixed Deposit.

(SUNIL K. KOTWAL)
JUDGE

(T.V. NALAWADE)
JUDGE

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