

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

30 CIVIL APPLICATION NO. 14337 OF 2019
IN FA/1465/2019
WITH CA/14338 OF 2019 IN FA/1466/2019
WITH CA/14339/2019 IN FA/1462/2019
WITH CA/14340/2019 IN FA/1482/2019
WITH CA/14342/2019 IN FA/1468/2019

SUNDER YEDBA CHOURE (DEAD) THR LRS GINANDEO AND ORS
VERSUS
THE EXECUTIVE ENGINEER MINOR IRRIGATION DIVN BEED AND ORS

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Advocate for Applicants : Mr. Bide Dnyaneshwar A.
Advocate for Respondents No. 1 to 3 : Mr. Shyam C. Arora.

CORAM : MANGESH S. PATIL, J.

DATE : 12/12/2019

PER COURT :

Heard both the sides.

2. These are the applications by the original claimants seeking withdrawal of the amount deposited by the Acquiring Body in this Court.

3. The learned advocate for the applicants submits that in fact when the Acquiring Body had not preferred the First Appeals the claimants had filed Execution Proceedings and the money was deposited with the Reference Court by the State Government. However before they could withdraw the money an interim order granting stay was passed by this Court.

4. The learned advocate would further submit that in some of the other appeals the claimants could withdraw the entire amount deposited by the State Government in the Reference Court since there was no stay. The learned advocate would then submit that the major component of

compensation regarding which there could be some dispute is in respect of fruit bearing trees. However, the Reference Court has meticulously assessed the compensation in respect of the trees. He has based his conclusions by referring to the report of Horticulturist from the Government department. For want of particulars he has to resort to some guess work and has discounted the valuation done by Horticulturist by 50 % while assessing the compensation. Therefore the applicants may be allowed to withdraw the amount.

5. The learned advocate for the Acquiring Body opposes the applications. He submits that the Reference Court has awarded exorbitant compensation for trees that being the major component, the entire amount cannot be allowed to withdraw. The Reference Court has resorted to conjectures and surmises. The interest has been awarded under Section 28 of the Land Acquisition Act from the date of possession when it should have been from the date of Award. The applications be rejected

6. Having considered these submissions and the reasoning given by the Reference Court, the applicants deserve to be paid 75 % of the amount with usual terms and conditions.

7. The applications are allowed. The applicants are allowed to withdraw 75 % of the amount deposited in the Reference Court, 50 % by furnishing undertaking in usual terms and 25 % by furnishing solvent surety/security.

8. The Civil Applications are disposed of

(MANGESH S. PATIL, J.)