

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

915 CIVIL APPLICATION NO.14382 OF 2019
IN FA/2856/2019
WITH
915.33 CIVIL APPLICATION NO.14383 OF 2019
IN FA/2871/2019
WITH
915.34 CIVIL APPLICATION NO.14385 OF 2019
IN FA/2872/2019
WITH
915.35 CIVIL APPLICATION NO. 14386/2019
IN FA/2858/2019
WITH
915.36 CIVIL APPLICATION NO.14387 OF 2019
IN FA/2868/2019
WITH
915.37 CIVIL APPLICATION NO.14388 OF 2019
IN FA/2859/2019
WITH
915.38 CIVIL APPLICATION NO.14389 OF 2019
IN FA/2865/2019
WITH
915.39 CIVIL APPLICATION NO.14390 OF 2019
IN FA/2843/2019
WITH
915.40 CIVIL APPLICATION NO.14392 OF 2019
IN FA/2853/2019
WITH
915.41 CIVIL APPLICATION NO.14393 OF 2019
IN FA/2844/2019
WITH
915.42 CIVIL APPLICATION NO.14395 OF 2019
IN FA/2845/2019
WITH
915.43 CIVIL APPLICATION NO.14396 OF 2019
IN FA/2867/2019
WITH
915.44 CIVIL APPLICATION NO.14397 OF 2019
IN FA/2855/2019
WITH
915.45 CIVIL APPLICATION NO.14399 OF 2019
IN FA/2848/2019
WITH
915.46 CIVIL APPLICATION NO.14400 OF 2019

IN FA/2851/2019
WITH
915.47 CIVIL APPLICATION NO.14402 OF 2019
IN FA/2854/2019
WITH
915.48 CIVIL APPLICATION NO.14403 OF 2019
IN FA/2847/2019
WITH
915.49 CIVIL APPLICATION NO.14405 OF 2019
IN FA/2864/2019
WITH
915.50 CIVIL APPLICATION NO.14406 OF 2019
IN FA/2866/2019
WITH
915.51 CIVIL APPLICATION NO.14407 OF 2019
IN FA/2861/2019
WITH
915.52 CIVIL APPLICATION NO.14408 OF 2019
IN FA/2852/2019

JYOTIRAM GIRDHARI TARUKAR
VERSUS
THE EX. ENGINEER, BEED IRRIGATION DIVISION, BEED THR G.M.I.D.C.,
AURANGABAD

...
Advocate for Applicant : Mr. A.B. Kale h/f. Mr. Naikwade Shivaji K.
AGP for Respondent: Mr. S.S. Dande
Advocate for Respondent No.1 : Mr. Sudhir G. Bhalerao
...

CORAM : MANGESH S. PATIL, J.

DATE : 06.12.2019

PER COURT :

Heard both the sides.

2. These are the applications by the original claimant seeking withdrawal of the amount deposited in the Court by the acquiring body which has preferred appeals against the judgment and award passed by the

reference court.

3. The learned advocate for the applicants points out that the Tribunal for the reasons mentioned has taken a plausible view and has done assessment which is quite reasonable. The value of the land does not exceed four times. The dispute at the most could be in respect of the valuation of the trees and even for that the expert was examined and the compensation has been assessed properly. Therefore, the entire amount be allowed to be withdrawn.

4. The learned advocate for the acquiring body strongly opposes the application. He submits that there is a serious dispute as to the expertise of the valuer. In spite of having noted that he is not a government approved valuer and had not produced anything about various instance to justify his version about having undertaken more than thousands valuation, the reference Court, based on conjectures and surmises has fixed the quantum of compensation for fruit bearing trees on higher side. He would then point out that even the interest under Section 28 has been awarded from the date of possession when it should have been from the date of the award and the difference would be of around 4 years. Therefore at the most only 50% of the compensation may be allowed to withdraw.

5. Considering all the aforementioned aspects in my view it would be appropriate to allow the applicants/claimants to withdraw 75% of the amount.

6. The application is allowed. The applicants/claimants are

allowed to withdraw 75% of the amount deposited in this Court, 50% by furnishing undertaking in usual terms and 25% by furnishing solvent security.

(MANGESH S. PATIL, J.)

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