

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

CIVIL APPLICATION NO.1016 OF 2020
IN FAST/10739/2019

RAM SHRIRANG MALI (DIED) THR VITHAL AND ORS
VERSUS
EX. ENGINEER, LIFT IRRIGATION DIVISION, OSMANABAD THREX.
ENGINEER, OSMANABAD AND

...
Advocate for Applicants : Mr. Ramesh V. Naiknavare
Advocate for Respondent No.1 : Mr. Shirish G. Sangle
AGP for Respondents No.2 and 3 : Mr. Y. G. Gujrathi
...

CORAM : K.K. SONAWANE, J.

DATED : 28th JANUARY, 2020.

ORDER :-

Heard learned counsel for the applicants-original claimants and learned AGP for respondents No.2 and 3. Despite service of notice, no one else appeared on behalf of respondent No.1 – Acquiring Body.

2. Present application is filed by applicants-claimants seeking permission for withdrawal of decretal amount deposited by respondent No.1 (original appellant)- Acquiring Body. Learned counsel for the applicants submits that the co-ordinate Bench of this Court has already allowed the other claimants of connected matters for withdrawal of 50% of the compensation deposited in this Court. Therefore, he prayed to grant same relief in favour of other claimants.

3. Perused the application and verified the entire relevant documents produced on record. The applicant-Acquiring Body deposited compensation amount in this Court as per impugned Judgment and Award. The learned Reference Court has determined market value of the acquired land @ Rs.4000/- per R. According to learned AGP, compensation granted by learned Reference Court is exorbitant and excessive manner. Learned AGP prayed to impose certain conditions for withdrawal of amount by the applicants.

4. In view of nature of the subject matter and the point of controversy raised on behalf of applicant- Acquiring Body, I find it justifiable to allow the applicants-claimants to withdraw some portion i.e. 50 % of the compensation amount deposited in this Court. Definitely it would sub-serve the purpose in the interest of justice. Therefore, Civil Application deserves to be partly allowed.

5. Accordingly, Civil Application stands partly allowed. The applicants-claimants are hereby permitted to withdraw 50% of the decretal amount deposited on behalf of appellant-Acquiring Body in this appeal on furnishing undertaking to the effect that in case adverse situation, if any, arises after adjudication of appeal on merit in favour of appellants, the applicants would refund the amount so withdrawn forthwith, as per order of this Court in the present proceeding. Rest of the balance 50% amount of compensation be invested in Fixed Deposit Receipt Account in any Nationalized Bank for a period of two years or till adjudication of this appeal, whichever is earlier. Registrar (Judicial) to do the needful for disbursement of the amount to the applicants-claimants i.e. legal heirs of deceased applicant No.1- Ram Shrirang Mali and applicant No.2- Baliram Ram Mali, as directed above.

6. The Civil Application stands disposed of in above terms.

Sd./-

[K. K. SONAWANE]
JUDGE

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