

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

920 CIVIL APPLICATION NO.840 OF 2020
IN FIRST APPEAL [STAMP] NO.24248 OF 2016

...
RAMKISHAN MANOHAR SONTAKKE
VERSUS
THE STATE OF MAHARASHTRA & OTHERS

...
Mr.G.K.Sontakke, Advocate for the applicant.
Mr.P.M.Kulkarni, AGP for the respondent-
State.

...
CORAM : V.L.ACHLIYA,J.
DATE : 15.12.2020

P.C.

1] The applicant – claimant has moved this application seeking permission to withdraw the amount deposited with the Reference Court.

2] Heard the learned counsel for applicant – claimant and learned AGP for the respondent – State.

3] In brief, it is the contention of the learned counsel for the applicant – claimant that the land admeasuring 3 Hector

34 Are owned by the applicant was acquired for Dapegaon percolation tank. The possession of the land was taken on 16.06.1994 by private negotiation before issuance of the Notification u/s. 4 of the Land Acquisition Act. The Notification u/s. 4 was issued on 29.05.1998. The award was passed on 11.12.2000. The claimant have claimed the compensation @ Rs.10 lac per acre for irrigated land and Rs.5 lac per acre for seasonally irrigated land. The Special Land Acquisition Officer has classified the land into two groups; the land in group no.1 assessed compensation @ Rs.340/- per Are i.e. Rs.13,600/- per acre [Rs.34,000/- per Hector] and for land in group no.2 assessed compensation @ Rs.412.50 per Are i.e. Rs.16,500/- per acre [Rs.41,250/- per Hector]. In a reference filed by the applicant – claimant, the Reference Court has enhanced the compensation @ Rs.2 lac per acre for *Jirayat* land and Rs.4 lac per acre for irrigated land. It is submitted that appeal preferred by the appellant is devoid of merits. The appellant has deposited the amount to the extent of 50% of the award passed by the Reference Court, pursuant to the conditional stay granted by this Court

vide order dated 23rd June, 2017 passed in Civil Application No.12148/2016 in First Appeal [Stamp] No.24152/2016. It is submitted that in the facts and circumstances of the case and challenge raised, the applicant – claimant is permitted to withdraw the amount to the extent of 50% of the award passed by the Reference Court during the pendency of the appeal on such terms and conditions as deem fit and proper by this Court.

4] On the other hand, learned AGP opposed the application with contention that the appellant has good case to succeed in appeal. The compensation awarded by the Reference Court is excessive and not sustainable in law. The land acquired is *jirayat* land. The Reference Court has awarded compensation by treating the land as irrigated land without any evidence.

5] On due consideration of the submissions advanced and challenge raised in appeal and further deposit of amount made by the appellant confines to 50% of the amount of award passed by the Reference Court, I am of the view that the applicant – claimant be permitted to withdraw the amount to the

extent of 75% of the amount deposited with the Reference Court on furnishing written undertaking. Hence the following order :

ORDER

i] The application is partly allowed in terms of prayer clause-B.

ii] The applicant is permitted to withdraw the amount to the extent of 75% of the amount deposited with the Reference Court on furnishing undertaking to the satisfaction of the Reference Court on condition that the applicant - claimant shall re-deposit the amount in case the award is set aside or modified. The balance amount be invested in fixed deposit till further orders from this Court, if not already invested.

iii] The withdrawal of the amount shall be subject to final outcome of the Appeal.

iv] Civil Application is disposed of in above terms.

**[V.L.ACHLIYA]
JUDGE**