

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

**82 CIVIL APPLICATION NO.620 OF 2020
IN FA/3132/2019**

BANDU NATHA KADAM AND ANR
VERSUS
THE STATE OF MAHARASHTRA AND ORS

...
WITH CA/621/2020 IN FA/3172/2019

BASKAR ACHUTRAO WAGHUNDE
VERSUS
THE STATE OF MAHARASHTRA AND ORS

...
WITH CA/622/2020 IN FA/3170/2019

RAMNATH BHAURAO NAGWE
VERSUS
THE STATE OF MAHARASHTRA AND ORS

...
Advocate for Appellants-claimants : Mr.S.S.Patunkar
AGP for Respondents-State : Mr.S.N.Morampalle
Advocate for Respondents-Acquiring Body : Mr.Umakant K.Patil

...
CORAM : K.K.SONAWANE, J.
DATE: 17th February, 2020

PER COURT:-

1. Heard learned counsel for the applicants-original claimants and learned counsel for the respondent-Acquiring Body.
2. Present applications are filed by the applicants-original claimants seeking permission to withdraw decretal amount deposited in this Court on behalf of the respondent-Acquiring Body.
3. Mr.U.K.Patil, learned counsel for the respondent-Acquiring Body raised objections and submits that the Reference Court determined exorbitant compensation amount for the trees located in the acquired lands. Moreover, the compensation amount determined by the Reference Court for the acquired lands also appears to be exorbitant and excessive one. The learned Reference Court did not consider the deferred value of the land under trees and committed error and

therefore, applicants may not be allowed to withdraw the entire decretal amount deposited in this Court.

4. After perusal of the impugned judgments and awards passed by the learned Reference Court, I find some force in the argument advanced on behalf of learned counsel for appellant-Acquiring Body. However, in view of nature of subject matter, it appears that the applicants are required to be allowed to withdraw some portion of the compensation amount deposited in this Court. Definitely, it would sub-serve the purpose of substantial justice. In case the applicants are not allowed to withdraw some portion of the compensation amount deposited in this Court, it would cause injustice and prejudice to them. Therefore, it would be justifiable to allow the applicants to withdraw some portion of the compensation amount on certain terms and conditions.

5. Accordingly, applications stand allowed. The applicants are allowed to withdraw 50% of the compensation amount deposited in this Court on furnishing undertaking to the effect that in case any adverse situation arises after decision of the present appeals in favour of the appellant-Acquiring Body, they would refund the amount so withdrawn immediately as per directions of this Court. The applicants are also further permitted to withdraw 25% of the balance compensation amount deposited in this Court on furnishing solvent surety in the like amount to the satisfaction of Registrar (Judicial) of this Court and rest of the balance 25% of the compensation amount be invested in Fixed Deposit Receipt in any nationalized or scheduled bank for a period of two years or till adjudication of the appeals on merit, whichever is earlier.

6. The Registrar (Judicial) to do the needful for disbursement of the compensation amount in favour of the applicants-claimants as indicated above. Accordingly, the applications stand disposed of.

(K.K.SONAWANE)
JUDGE