

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

CIVIL APPLICATION NO.1537 OF 2020 IN FA/524/2019

REKHABAI DILIP PAWAR AND ORS
VERSUS
THE EX. ENGINEER, MINOR IRRIGATION DIVISION, JALGAON.AND ORS

...
Advocate for Applicants : Mr. Vinod Prakash Patil
AGP for Respondents No.2 and 3 : Mr. P. M. Kulkarni
Advocate for Respondents No.1 and 4 : Mr. Subhas S. Chillarge

...
CORAM : K.K. SONAWANE, J.

DATED : 10th FEBRUARY, 2020.

ORDER :-

Heard learned counsel for applicants-original claimants and learned counsel for respondents-Acquiring Body as well as learned AGP for respondents-State of Maharashtra and Special Land Acquisition Officer. Perused the application and other relevant documents produced on record.

2. The applicants moved proceeding of Civil Application No. 11151 of 2019 in FA/524/2019 for seeking permission to withdraw the decretal amount deposited in this Court. After hearing both the sides, this Court, under Order dated 13th September, 2019, allowed the applicants to withdraw 50% amount deposited in this Court and it be distributed between them equally on furnishing undertaking.

3. Learned counsel for the applicants submits that inadvertently the name of applicant No.4 Prasad Ulhas Kale was not incorporated in array of applicants in the proceeding of CA/11151/2019 in FA/524/2019. However, applicant No.4 was the original claimant and filed objection with the other applicants-claimants. Therefore, in order to incorporate the name of applicant No.4 Prasad Ulhas Kale for seeking permission to withdraw the amount, present application is filed for modification of earlier order to the extent of adding name of applicant No.4 in the proceeding.

4. In view of submission, I do not find any impediment to allow the applicants for incorporating the name of applicant No.4 Prasad Ulhas Kale and modify earlier order dated 13th September, 2019. Admittedly, applicants are the original claimants. They filed claim petition bearing LAR No. 34 of 2010, seeking enhancement of compensation filed under Section 18 of Land Acquisition Act, 1894. Learned Reference Court partly allowed reference petition. Being dissatisfied with impugned Award, the appellant-Acquiring Body filed first appeal for redressal. Applicant No.4 Prasad Kale was also one of the party respondent in appeal. In such circumstances, there is no legal impediment to allow the applicants-claimants for withdrawal of 50% amount as granted by this Court in earlier order dated 13-09-2019 on furnishing undertaking.

5. Accordingly, the Civil Application stands allowed in terms of prayer clause 'B', 'C', and 'D'. The applicants-claimants are hereby permitted to withdraw 50% amount of compensation deposited on behalf of appellant-Acquiring Body in this appeal on furnishing undertaking to the satisfaction of learned Registrar (Judicial) of this Court to the effect that in case adverse situation, if any, arises after adjudication of appeal on merit in favour of appellants, the applicants-claimants would refund the amount so withdrawn forthwith, as per order of this Court in the present proceeding, within a period of four weeks from today. After due compliance, amount be disbursed in favour of applicants No. 1 to 6. Registrar (Judicial) to do the needful for disbursement of the amount to the applicants-claimants as directed above. Accordingly, the Civil Application stands disposed of in above terms.

Sd./-

[K. K. SONAWANE]
JUDGE