

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

BENCH AT AURANGABAD

908 CIVIL APPLICATION NO.4507 OF 2020 IN IN FIRST APPEAL NO.837 OF 2020
SHAIKH AHMED ABDUL RAHEMAN (DIED) THROUGH L.RS. SHAIKH ISMAIL
SHAIKH AHMED AND OTHERS

VERSUS

THE STATE OF MAHARASHTRA THROUGH COLLECTOR, JALGAON AND
OTHERS

WITH

CIVIL APPLICATION NO.4505 OF 2020 IN FIRST APPEAL NO.835 OF 2020
MADHUKAR DAMODHAR KHADKE THROUGH GPA SURESH DAMODHAR
KAHDKE AND OTHERS

VERSUS

THE STATE OF MAHARASHTRA THROUGH COLLECTOR, JALGAON AND
OTHERS

WITH

CIVIL APPLICATION NO.4506 OF 2020 IN FIRST APPEAL NO.836 OF 2020
SHRAWAN DEVCHAND CHAUDHARI
GPA HOLDER OF ONKAR (DIED) THROUGH L.RS. KASABAI AND OTHERS
VERSUS

THE STATE OF MAHARASHTRA THROUGH COLLECTOR, JALGAON AND
OTHERS

WITH

CIVIL APPLICATION NO.4508 OF 2020 IN FIRST APPEAL NO.838 OF 2020
PARVATABAI NARAYAN CHAUDHARI THROUGH GPA HOLDER OF BANSHILAL
DIED) THROUGH L.RS. SHOBHA BANSIL

VERSUS

THE STATE OF MAHARASHTRA THROUGH COLLECTOR, JALGAON AND
OTHERS.

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Shri Amol P. Ghule Patil, Advocate for applicants.

Shri P.M. Kulkarni, AGP for respondent nos.1 & 2.

Smt.Madhaveshwari Mhase - Thube, Advocate for respondent no.3.

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CORAM: V.L. ACHLIYA, J.

DATE: 14.08.2020

PER COURT :

1] The applicants - claimants have moved these applications seeking withdrawal of amount deposited by the acquiring body in respective appeals in terms of common order dated 12.12.2019 passed in these matters.

2] Learned counsel for the applicants submits that the acquisition of land has been made for extension of M.I.D.C. way back in the year 1980. The SLAO awarded compensation at the rate of Rs.39,950/- per Hectare. In the reference proceedings filed by respective applicants, the Reference Court vide judgment and award dated 7.4.2017 enhanced the compensation to be payable @ Rs.1,50,000/- per Hectare. For Pot Kharab land, enhancement has been made @ Rs.75,000/- per Hectare. It is submitted that the Reference Court has considered the sale instances relied upon by the appellant - acquiring body. The awards are separately passed after due analysis of said sale deeds. It is submitted that the claimants are deprived of their legitimate claim to receive compensation of the acquired land made in the year 1980. They are in dire need of money for their survival.

3] The appellant - acquiring body has opposed the application by filing affidavit in reply. In brief, it is contention of appellant - acquiring body that enhancement of compensation is

without any basis and evidence adduced in that behalf. It is submitted that the appellant has tendered as many as 17 sale deeds showing sale instances of similarly situated lands taken place during the period 1977 to 1980 i.e. prior to issuance of notification to acquire the land. It is submitted that the sale instances reflect that the value of lands in the proximity of the land acquired was in the range of Rs.15,000/- to Rs.30,000/- per Hectare during the period from 1977 to 1980. In that view, no case was made out for enhancement of compensation. It is submitted that the judgment and award separately passed in each of the references by the Reference Court are erroneous and not sustainable in law. In the judgment and award passed by the Reference Court, it has nowhere discussed as to how market value of the land for the purpose of assessment of compensation has been considered @ Rs.1,50,000/- per Hectare. It is submitted that the appellant has good case to succeed in appeals. In case the applicants are permitted to withdraw the amount, it will be difficult for the appellant - acquiring body to recover the amount. In the alternative, the learned counsel submits that in case any amount is permitted to be withdrawn, same shall be made subject to furnishing solvent surety or bank guarantee.

4] On due consideration of the submissions advanced in the

light of overall facts of the case, I am of the view that the applicants be permitted to withdraw the amount to the extent of 50% of the amount deposited in respective appeals on furnishing undertaking to the effect that in the event the judgments and awards under challenge are modified or set aside, the applicants – claimants shall deposit the amount as directed by this Court within eight weeks from the date of passing of such order. It is not desirable to put conditions as that of furnishing solvent surety or bank guarantee in view of the fact that acquisition was made way back in the year 1980 and the claimants are struggling for their legitimate claim to receive compensation for last 40 years. Hence, the following order.

ORDER

A] The applicants – claimants are permitted to withdraw the amount to the extent of 50% of the amount deposited by appellant – acquiring body on furnishing personal undertaking to the satisfaction of Registrar (Judicial) to the effect that in the event the judgments and awards passed by the Reference Court in their respective case are set aside or modified, the applicants – claimants shall re-deposit the amount as directed by this Court within eight weeks from the date of passing of such order.

B] The amount as above be paid to the applicants -

claimants by transferring the amounts to their respective savings bank accounts.

C] After paying the amount to the extent of 50% of the amount deposited to respective applicants, balance amount be invested in fixed deposit initially for a period of three years with State Bank of India with standing instructions to renew the same till further orders from the Court.

D] The oral request made by the learned counsel for the applicants to pay the amount to the Power of Attorney holder of the applicants - claimants is refused.

E] The applications are disposed of in above terms.

(V.L. ACHLIYA, J.)