

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

47 CIVIL APPLICATION NO.2714 OF 2020
IN FA/655/2020

SHIVPRASAD HIRALAL DHOOT
VERSUS
THE EX. ENGINEER, LOWER TERNA CANAL DIVISION NO.2 LATUR AND ANR

...
Advocate for Applicant : Mr. N. P. Patil Patil N.P. Jamalpurkar
AGP for Respondent No.2: Mr. P.M. Kulkarni
Adv. For respondent No.1 : Mr. B.A. Shinde..

CORAM : K.K. SONAWANE, J.

DATE : 2nd March, 2020.

PER COURT:

Heard the learned counsel for the applicant, learned counsel Shri Shinde for Acquiring Body as well as learned AGP for State.

2] The present application is filed seeking permission for withdrawal of the compensation amount deposited on behalf of the respondent Acquiring Body in this court. It has been contended that lands of the applicants were acquired by the respondents for the purpose of construction of canal. The Land Acquisition Officer awarded compensation @ 790 per R for the acquired land. Thereafter, the claimants approached to the Reference Court under Section 18 of the Land Acquisition Act. The learned Reference Court considered the evidence on record and partly allowed the reference petition and determined the market value @ 1629 per R. The learned counsel for the applicant submits that the market value allowed to be enhanced by the Reference Court was within 4 times of the ready reckoner rates and as per the Government Resolution issued by the Government of Maharashtra in this regard, the appeal filed by Acquiring Body is not maintainable.

3] The learned counsel for the Acquiring body submits that

there are legal errors in the order of the Reference Court for grant of interest under Section 28 of the Land Acquisition Act. Therefore, he fairly concedes that the compensation amount may be allowed to be withdrawn by the applicants.

4] Having given anxious consideration to the arguments advanced on behalf of both sides, I do not find any impediment to accept the contentions advanced on behalf of Acquiring Body. The market value of the acquired land awarded by the Reference Court appears to be just and reasonable. So far as the legal infirmity in regard to interest awarded to the claimants, the same would be considered at the time of final hearing of the appeal. At this juncture there is no impediment to allow the applicants for withdrawal of the amount of compensation deposited in this court on certain terms and conditions.

5] Accordingly, the the applicant is hereby permitted to withdraw 50% of the compensation amount deposited in this court subject to condition that the applicant shall furnish an undertaking to the effect that in case adverse situation arises after adjudication of the appeal on merit, in favour of appellant Acquiring Body, the applicant will refund the amount so withdrawn forthwith as per the directions of this Court. The applicant is further permitted to withdraw the balance 50% compensation amount deposited in this court, on furnishing solvent surety of like amount to the satisfaction of the Registrar (Judicial) of this court. Registry of this court to do the needful for disbursement of amount in favour of the applicant, as indicated above. Application for withdrawal of amount stands disposed of accordingly.

[K.K. SONAWANE]
JUDGE.

grt/-