

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

905 CIVIL APPLICATION NO.4643 OF 2020 IN FIRST APPEAL NO.1640 OF 2020
GURULING NIVRUTTI RODGE
VERSUS
THE STATE OF MAHARASHTRA THROUGH THE COLLECTOR,
OSMANABAD AND OTHERS

905.8 CIVIL APPLICATION NO.4639 OF 2020 IN FIRST APPEAL NO.1637 OF 2020
SIDDHALING NIVRUTTI RODGE (DIED) THROUGH L.RS. ARUNABAI AND
OTHERS
VERSUS
THE STATE OF MAHARASHTRA THROUGH THE COLLECTOR,
OSMANABAD AND OTHERS

905.9 CIVIL APPLICATION NO.4641 OF 2020 IN FIRST APPEAL NO.1638 OF 2020
MADHUKAR NIVRUTTI RODGE
VERSUS
THE STATE OF MAHARASHTRA THROUGH THE COLLECTOR,
OSMANABAD AND OTHERS

905.10 CIVIL APPLICATION NO.4642 OF 2020 IN FIRST APPEAL NO.1639 OF 2020
KASHINATH NIVRUTTI RODGE
VERSUS
THE STATE OF MAHARASHTRA THROUGH THE COLLECTOR,
OSMANABAD AND OTHERS

905.11 CIVIL APPLICATION NO.4645 OF 2020 IN FIRST APPEAL NO.1641 OF 2020
KISAN MALLAPPA RODGE (DIED) THROUGH L.RS. ANUSAYA (DIED) THROUGH
L.RS. ARCHANA AND OTHERS
VERSUS
THE STATE OF MAHARASHTRA THROUGH THE COLLECTOR,
OSMANABAD AND OTHERS

905.12 CIVIL APPLICATION NO.4648 OF 2020 IN FIRST APPEAL NO.1642 OF 2020
PRABHU KASHINATH SHETE
VERSUS
THE STATE OF MAHARASHTRA THROUGH, THE COLLECTOR,
OSMANABAD AND OTHERS

905.13 CIVIL APPLICATION NO.4649 OF 2020 IN FIRST APPEAL NO.1643 OF 2020
SATLING NIVRUTTI RODGE
VERSUS
THE STATE OF MAHARASHTRA THROUGH, THE COLLECTOR,
OSMANABAD AND OTHERS

Shri R.P. Bhumkar, Advocate for applicants.
Shri R.B. Bagul, AGP for respondent Nos.1 and 2.
Shri B.R. Surwase, Advocate for respondent No.3.

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CORAM : V.L. ACHLIYA, J.
DATE : 04.08.2020

PER COURT :

1] The applicants - claimants i.e. respondents in respective appeals have moved these applications seeking withdrawal of amount deposited by the appellants - acquiring body.

2] In brief, it is the contention of learned counsel for the applicants that the lands belonging to the applicants - claimants were acquired way back in the year 2004 for the purpose of storage tank. The SLAO has awarded the compensation in the range of Rs.330/- to Rs.530/- per Aare. Being aggrieved, the applicants - claimants made reference for enhancement. The Reference Court has enhanced the compensation in the range of Rs.3300/- to Rs.3600/- per Aare. It is submitted that there is no merit in the appeals preferred by the appellants. The Reference Court has considered the award passed in L.A.R.No.562/2008 arising out of acquisition of similar land for enhancement of compensation. The applicants are deprived of the compensation for the last 15 years. The applicants are agriculturists by profession and they have no other alternative source of income for their survival. The amount is required to meet their urgent needs.

It will take long time to hear the appeals.

3] On the other hand, learned counsel for the appellants – acquiring body opposed the applications with contention that the enhancement of compensation by the Reference Court is without any supporting evidence adduced on the part of applicants – claimants, except production of copy of judgment and order passed in L.A.R. No.562/2008). The enhancement of compensation is about 10 times more than the amount awarded by the SLAO. It is submitted that the appellants have good case on merits to succeed in appeals. If the applicants are allowed to withdraw the amount deposited in terms of awards passed by the Reference Court, then there is every likelihood that the amount may not be recovered in the event the appeals are allowed and the awards passed by the Reference Court are set aside or modified.

4] I have carefully considered the submissions advanced in the light of judgments and awards passed by the Reference Court and the challenge raised in the appeals. In my view, there is an arguable case to be considered in the appeals preferred by the appellants. The enhancement of compensation by the Reference Court appears to be about 10 times more than the compensation assessed by the SLAO. It is evident from the judgments and orders passed by the Reference Court that the claimants have not stepped

into witness box nor examined any witness. They have simply tendered copies of award passed in L.A.R.No.562/2008 and 7/12 extracts of the land. The judgments and awards by the Reference Court appear to have been passed based upon judgment and order passed in L.A.R.No.562/2008. In that view, it is necessary to examine whether the enhancement of compensation made purely on the basis of award passed in L.A.R.No.562/2008 is legally sustainable. It is not clear from the judgments and awards passed by the Reference Court that the award passed in L.A.R.No.562/2008 is subject matter of challenge in appeal before this Court. In that view, there is a case to be considered in the appeals. In the facts and circumstances of the case, I am of the view that the applicants be allowed to withdraw the amount to the extent of 50% as the acquisition of land has taken place way back in the year 2004. Hence, the following order.

ORDER

A] The applicants – claimants in respective appeals are allowed to withdraw the amount to the extent of 50% of the amount deposited by the appellants – acquiring body on their furnishing written undertaking to the satisfaction of Registrar (Judicial) on condition that the applicants – claimants shall re-deposit the amount in case

judgments and awards passed by the Reference Court are set aside or modified by this Court. In the event any order to re-deposit the amount is passed by this Court, the applicants – claimants shall deposit the amount within eight weeks from the date of passing of such order.

B] After making payment to the extent of 50% of the amount deposited by the appellants – acquiring body, the balance amount be invested in fixed deposit with State Bank of India initially for a period of three years with standing instructions to renew the fixed deposit till further orders from this Court.

C] It is expressly made clear that the order of withdrawal of amount has been passed considering overall merits of the case and, therefore, no further application seeking further withdrawal of amount shall be entertained at the instance of applicants – claimants.

D] The applications are disposed of in above terms.

(V.L. ACHLIYA, J.)