

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

906 CIVIL APPLICATION NO.4646 OF 2020 IN
FIRST APPEAL NO.305 OF 2020
VITTHAL TATYA DHANWADE (DIED) THROUGH L.RS. UDDHAV
DHANWADE AND OTHERS
VERSUS
THE EXECUTIVE ENGINEER, BEED IRRIGATION DIVISION, BEED
THROUGH G.M.I.D.C., AURANGABAD AND ANOTHER

906.7 CIVIL APPLICATION NO.10771 OF 2019 IN
FIRST APPEAL NO.308 OF 2020
GINYANDEV GOVIND PAWAR (DIED) THROUGH L.RS. MARUTI AND
OTHERS
VERSUS
THE EXECUTIVE ENGINEER, BEED IRRIGATION DIVISION, BEED
THROUGH G.M.I.D.C., AURANGABAD AND ANOTHER

906.25 CIVIL APPLICATION NO.4647 OF 2020 IN
FIRST APPEAL NO.308 OF 2020
GINYANDEO GOVIND PAWAR (DIED) THROUGH L.RS. MARUTI
AND OTHERS
VERSUS
THE EXECUTIVE ENGINEER, BEED IRRIGATION DIVISION, BEED
THROUGH G.M.I.D.C., AURANGABAD AND ANOTHER

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Shri Subham D. Jayabhar, Advocate for applicants.
Shri Sudhir G. Bhalerao, Advocate for respondent No.1.
Shri S.Y. Mahajan, AGP for respondent No.2.

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CORAM : V.L. ACHLIYA, J.

DATE : 04.08.2020

PER COURT :

1] The applicants – original claimants in respective appeals
have preferred these applications for withdrawal of amount
deposited in respective appeals by the appellants – acquiring body.

2] In brief, it is the contention of learned counsel for the applicants that in terms of order dated 4.4.2019 passed by this Court granting stay to the execution of awards on condition to deposit the amount to the extent of 50% of awards passed by the Reference Court, the appellants – acquiring body has deposited the amount as per the particulars given in respective applications. It is submitted that the lands belonging to applicants were acquired pursuant to notification dated 1.4.2004. The award in the matter was passed on 31.1.2006. The Reference Court has enhanced the compensation at the rate of Rs.3750/- per Aare for Bagayat land and Rs.3,000/- per Aare for Jirayat land. For Pot Kharab land, the compensation has been awarded @ Rs.1500/- per Aare. It is submitted that considering the value of land acquired, even the compensation awarded by the Reference Court is on lower side. The claimants are deprived of the compensation for last 15 years. Their only source of livelihood has been taken away on account of acquisition. It is submitted that in connected appeals arising out of same acquisition and awards passed by the Reference Court, this Court has permitted withdrawal of entire amount deposited by the appellants – acquiring body considering the fact that the deposit has been made only to the extent of 50% of the amount awarded by the Reference Court. It is submitted that the applicants are in

need of money for rehabilitation, education of their children and to meet medical expenses of themselves and their family members. It is further submitted that the appellants have no case to succeed in appeals. It will take long time to hear the appeals. In this background, the learned counsel urged to allow the applicants to withdraw the amount deposited by the appellants – acquiring body in terms of order passed in connected appeals.

3] Learned counsel for the appellants – acquiring body opposed the application with contention that the appellants have good case to succeed in appeals. The judgments and orders passed by the Reference Court are not sustainable in law. No evidence was adduced on the part of claimants so as to enhance the compensation to the extent of 6 to 8 times than the compensation awarded by the SLAO. It is submitted that the compensation assessed by the SLAO in the range of Rs.530/- to Rs.720/- per Aare has been enhanced in the range of Rs.3,000/- to Rs.3750/- per Aare without supporting evidence adduced in that behalf. The enhancement of compensation is more than 6 to 8 times the amount of compensation assessed and awarded by the SLAO. It is submitted that if the applicants are permitted to withdraw the amount, it will be difficult to recover the same if the appeals are allowed and the awards passed by the Reference Court

are set aside or modified.

4] On due consideration of the submissions advanced and perusal of order passed in connected appeals allowing withdrawal of entire amount deposited by the appellants – acquiring body, I am of the view that the applicants also deserve to be permitted to withdraw the amount deposited by the appellants – acquiring body on certain conditions. In terms of order dated 4.4.2019 passed in the matter, stay has been granted to execution of awards on deposit of amount to the extent of 50% of the amount awarded by the Reference Court. The lands in question were acquired in the year 2004. The award was passed in the year 2006. The Reference Court has decided the respective references in the year 2015. In that view, the applicants are deprived of to receive the compensation from the last 15 years. It appears from the judgments and orders passed by the Reference Court that it has passed the orders after due analysis of the evidence adduced in the case. While assessing compensation, the Reference Court has considered the judgment and order dated 28.4.2010 passed in L.A.R.No.701/2006 for the purpose of assessment of compensation. The interest of the appellants – acquiring body can be safeguarded by putting condition to file an undertaking to re-deposit the amount in the event the appeals are allowed and the awards passed by the

Reference Court are set aside or modified. I am, therefore, inclined to pass following order.

ORDER

A] The applicants in respective appeals are permitted to withdraw the amount deposited by the appellants – acquiring body in terms of order dated 4.4.2019 on furnishing undertaking to the satisfaction of Registrar (Judicial) with condition that in the event the awards passed by the Reference Court are set aside or modified, the applicants shall re-deposit the amount in terms of such order. The payment of amount shall be subject to outcome of the appeals.

B] The amount in terms of order be paid to the applicants by transferring the amount in their respective savings bank accounts after furnishing undertaking and producing particulars of their respective bank accounts.

C] In view of extension of lockdown and restrictions imposed on movement of persons from one District to the other in force, in appropriate case if any applicant is found to be having genuine difficulty to personally appear for personal verification, then the Registrar

(Judicial) is directed to consider the option if any available to record verification of such applicant/s.

D] The applications are disposed of in above terms.

(V.L. ACHLIYA, J.)