

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

931 CIVIL APPLICATION NO.4834 OF 2020 IN FA/1385/2020

SAMADHAN RAMDAS NHAVERI AND ANOTHER  
VERSUS

THE STATE OF MAHARASHTRA THROUGH ITS THE EXECUTIVE  
ENGINEER, M.I.W. DIVISION, JALGAON AND OTHERS

-----  
AND

933 CIVIL APPLICATION NO.4843 OF 2020  
IN FIRST APPEAL NO.1387/2020  
ANJANABAI PUNDLIK PATIL

VERSUS

THE STATE OF MAHARASHTRA THROUGH ITS THE EXECUTIVE  
ENGINEER, M.I.W. DIVISION, JALGAON AND OTHERS

WITH

CIVIL APPLICATION NO.4835/2020 IN FIRST APPEAL NO.1384/2020  
JANARDHAN SAMPAT TELI (DIED) THROUGH LRS. SALUBAI (DEAD)  
THROUGH LRS BAPU JANARDHAN CHAUDHARI  
VERSUS

THE STATE OF MAHARASHTRA THROUGH ITS THE EXECUTIVE  
ENGINEER, M.I.W. DIVISION, JALGAON AND OTHERS

WITH

CIVIL APPLICATION NO.4836/2020 IN FIRST APPEAL NO.1383/2020  
PUNLIK NAMDEV PATIL  
VERSUS

THE STATE OF MAHARASHTRA THROUGH ITS THE EXECUTIVE  
ENGINEER, M.I.W. DIVISION, JALGAON AND OTHERS

WITH

CIVIL APPLICATION NO.4839/2020 IN FIRST APPEAL NO.1386/2020  
ASHOK ANANDA PATIL  
VERSUS

THE STATE OF MAHARASHTRA THROUGH ITS THE EXECUTIVE  
ENGINEER, M.I.W. DIVISION, JALGAON AND OTHERS

WITH

CIVIL APPLICATION NO.4840/2020 IN FIRST APPEAL NO.1388/2020  
SAYABAI KADU PATIL  
VERSUS

THE STATE OF MAHARASHTRA THROUGH ITS THE EXECUTIVE

ENGINEER, M.I.W. DIVISION, JALGAON AND OTHERS

WITH  
CIVIL APPLICATION NO.4841/2020 IN FIRST APPEAL NO.1389/2020  
SAMADHAN DEVRAM PATIL  
VERSUS  
THE STATE OF MAHARASHTRA THROUGH ITS THE EXECUTIVE  
ENGINEER, M.I.W. DIVISION, JALGAON AND OTHERS

WITH  
CIVIL APPLICATION NO.4842/2020 IN FIRST APPEAL NO.1390/2020  
SHANTARAM KONDU PATIL  
VERSUS  
THE STATE OF MAHARASHTRA THROUGH ITS THE EXECUTIVE  
ENGINEER, M.I.W. DIVISION, JALGAON AND OTHERS

...  
Mr. Vijay B. Patil, Advocate for applicants.  
S/Shri P.N. Kutty and A.A. Jagatkar, AGPs for the State.  
Shri S.D. Dhongade, Advocate for respondent no.1.

....

**CORAM: V.L. ACHLIYA, J.**

**DATE: 18.08.2020**

**PER COURT :**

1] The applicants - claimants in respective appeals have moved these applications seeking withdrawal of amount deposited by the appellant - acquiring body pursuant to order dated 27.9.2019 passed by this Court to grant conditional stay to the execution of decree.

2] Heard learned counsel for the applicants - claimants in respective appeals and the counsel representing the appellant - acquiring body.

3] Learned counsel for the applicants - claimants in respective appeals submits that pursuant to conditional order dated

27.9.2019 passed by this Court to stay the execution of award passed by the Reference Court to deposit the amount in terms of award passed on and before 10.2.2020, the appellant – acquiring body has deposited the amount only to the extent of 41% of compensation awarded by the Reference Court. In view of non-compliance of the order, the stay granted to the execution proceedings is automatically vacated. It is submitted that the appellant has no case to succeed in appeals. In connected reference arising out of same acquisition, the applicants are in process to accept the proposal to settle the claim to the extent of 80% of the award passed by the Reference Court. The case of the applicants stands on par with the proposal under consideration of the appellant – acquiring body. In that view, the applicants deserve to be permitted to withdraw the entire amount deposited by the appellant – acquiring body.

4] On the other hand, learned counsel for the appellant – acquiring body opposed the applications with contention that the appellant has good case to succeed in appeals. The enhancement of compensation is without any basis. The compensation awarded by the SLAO in the range of Rs.80,000/- to Rs.1,40,000/- per Hectare has been enhanced to Rs.4,50,000/- per Hectare without any evidence to support such enhancement. Similarly, the interest has

been awarded from the date of taking possession which is contrary to Full Bench decision of this Court. So also the compensation awarded on account of fruit bearing trees is also not sustainable in law. If the applicants are permitted to withdraw the amount, then it will be difficult to recover the same if award is set aside or modified. It is submitted that the proposal to release further amount for deposit is made to the State Government.

5] Since the applicants have not specified the amount to be withdrawn in their respective applications, the Nazir of this Court was directed to submit report vide order dated 14.8.2020 in respect of amount deposited by the appellant – acquiring body in the respective appeals. The Nazir has submitted the report and reported deposit of amount as under:-

| <b>Sr.No.</b> | <b>Matter No.</b> | <b>Amount</b> |
|---------------|-------------------|---------------|
| 1             | FA 1390/20        | 60172.00      |
| 2             | FA 1388/20        | 701112.00     |
| 3             | FA 1383/20        | 2643018.00    |
| 4             | FA 1387/20        | 1105050.00    |
| 5             | FA 1386/20        | 1632517.00    |
| 6             | FA 1389/20        | 687711.00     |
| 7             | FA 1385/20        | 1511796.00    |
| 8             | FA 1384/20        | 536336.00     |

6] On due consideration of the submissions in the light of challenge raised, I am of the view that the applicants be permitted

to withdraw the amount to the extent of 70% of amount deposited by the appellant - acquiring body in respective appeals on furnishing undertaking to the effect that in case the award is set aside or modified, the applicants - claimants in respective appeals shall re-deposit the amount within eight weeks from the date of passing of such order. Hence, the following order.

**ORDER**

A] The applicants - claimants in respective applications are permitted to withdraw the amount to the extent of 70% out of the amount deposited by the appellant - acquiring body in respective appeals on condition to file undertaking to the satisfaction of Registrar (Judicial) that in the event the award passed by the Tribunal is set aside or modified, the applicants - claimants shall re-deposit the amount withdrawn within eight weeks from the date of passing of such order.

B] Withdrawal of amount by the applicants - claimants shall be subject to outcome of final decision in their respective appeals.

C] The amount permitted to be withdrawn be transferred to the savings bank accounts of respective applicants - claimants on furnishing particulars of their

respective savings bank accounts.

D] After making payment of 70% of the amount to the applicants, the balance amount be invested with State Bank of India initially for a period of three years with instructions to renew the same till further orders from this Court.

E] The applications are disposed of in above terms.

**(V.L. ACHLIYA, J.)**

ndk/c1882017.doc