

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

BENCH AT AURANGABAD

934 CIVIL APPLICATION NO.4844 OF 2020
IN FIRST APPEAL NO.1663/2020 (FAST 36232/19)

PRAKASH SITARAM PATIL (DIED) THROUGH L.RS. PRAVIN AND OTHERS
VERSUS
THE STATE OF MAHARASHTRA THROUGH ITS THE EXECUTIVE
ENGINEER., M.I.W. DIVISION, JALGAON AND OTHERS

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AND

935 CIVIL APPLICATION NO.4845 OF 2020 IN FIRST APPEAL NO.1664/2020
(FAST 36235/19)
ISHWAR DAULAT PATIL
VERSUS
THE SPECIAL LAND ACQUISITION OFFICER, JALGAON AND OTHERS

WITH
CIVIL APPLICATION NO.4846/2020 IN FIRST APPEAL NO.1665/2020
(FAST 36240/19)
VAISHALI AJIT CHAUDHARI AND OTHERS
VERSUS
THE STATE OF MAHARASHTRA THROUGH ITS THE EXECUTIVE
ENGINEER., M.I.W. DIVISION, JALGAON AND OTHERS

WITH
CIVIL APPLICATION NO.4847/2020 IN FIRST APPEAL NO.1662/2020
(FAST 36246/19)
SHANTARAM BHAGWAN PATIL
VERSUS
THE STATE OF MAHARASHTRA THROUG ITS THE EXECUTIVE
ENGINEER., M.I.W. DIVISION, JALGAON AND OTHERS

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Mr. Vijay B. Patil, Advocate for applicants.
Shri P.K. Lakhotiya, AGP for the State.
Smt. Vaishali D. Jadhav, Advocate for respondent no.1.

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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 25% of compensation awarded by the Reference Court. 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. It is further submitted that the appellant was directed to deposit the amount in terms of award, but the amount has been deposited only to the extent of 25% of the award and order seeking extension of time has been obtained to deposit the balance amount.

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:-

Sr.No.	Matter No.	Amount
1	FA 1665/2020 (FAST 36240/19)	1682530.00
2	FA 1664/2020 (FAST 36235/19)	4017697.00
3	FA 1662/2020 (FAST 36246/19)	3284018.00
4	FA 1663/2020 (FAST 36232/19)	9982642.00

6] On due consideration of the submissions in the light of challenge raised, I am of the view that since the amount to the extent of 25% of the award is deposited by the acquiring body, the applicants be permitted to withdraw the entire 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 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] The applications are disposed of in above terms.

(V.L. ACHLIYA, J.)