

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

920 CIVIL APPLICATION NO.5064 OF 2020
IN FIRST APPEAL ST. NO.28705/2019
JANARDHAN VITTHAL KALE AND OTHERS
VERSUS

THE STATE OF MAHARASHTRA THROUGH ITS, THE EXECUTIVE
ENGINEER, MINOR IRRIGATION DEPT., JALGAON AND OTHERS

WITH
CIVIL APPLICATION NO.5073/2020 IN FIRST APPEAL NO.745/2020
AYNURBAI RAJJAK TADAVI
VERSUS

THE STATE OF MAHARASHTRA THROUGH ITS, THE EXECUTIVE
ENGINEER, MINOR IRRIGATION DEPT., JALGAON AND OTHERS

WITH
CIVIL APPLICATION NO.5075/2020 IN FIRST APPEAL NO.743/2020
RIYAZ SHAH SHABBIR SHAH FAKIR
VERSUS

THE STATE OF MAHARASHTRA THROUGH ITS, THE EXECUTIVE
ENGINEER, MINOR IRRIGATION DEPT., JALGAON AND OTHERS

WITH
CIVIL APPLICATION NO.5076/2020 IN FIRST APPEAL NO.744/2020
MOHAN INDRASINGH PATIL (DIED) THROUGH LRS VIDYA AND OTHERS
VERSUS

THE STATE OF MAHARASHTRA THROUGH ITS, THE EXECUTIVE
ENGINEER, MINOR IRRIGATION DEPT., JALGAON AND OTHERS

WITH
CIVIL APPLICATION NO.5079/2020 IN FIRST APPEAL NO.3049/2019
KAILASH VITTHAL PARDESHI AND ANOTHER
VERSUS

THE STATE OF MAHARASHTRA THROUGH ITS, THE EXECUTIVE
ENGINEER, MINOR IRRIGATION DEPT., JALGAON AND OTHERS

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AND

921 CIVIL APPLICATION NO.5068 OF 2020
IN FIRST APPEAL ST. NO.28644/2019
CHINDHABAI VITTHAL DHUMAL

VERSUS

THE STATE OF MAHARASHTRA THROUGH ITS, THE EXECUTIVE
ENGINEER, MINOR IRRIGATION DEPT., JALGAON AND OTHERS

WITH

CIVIL APPLICATION NO.5065/2020 IN FIRST APPEAL ST. NO.28640/2019
VALMIK GIRDHAR KOLI

VERSUS

THE STATE OF MAHARASHTRA THROUGH ITS, THE EXECUTIVE
ENGINEER, MINOR IRRIGATION DEPT., JALGAON AND OTHERS

WITH

CIVIL APPLICATION NO.5067/2020 IN FIRST APPEAL ST. NO.28637/2019
JANARDHAN VITTHAL KALE AND OTHERS

VERSUS

THE STATE OF MAHARASHTRA THROUGH ITS, THE EXECUTIVE
ENGINEER, MINOR IRRIGATION DEPT., JALGAON AND OTHERS

AND

923 CIVIL APPLICATION NO.5072 OF 2020
IN FIRST APPEAL NO.943/2020
JAVEDSHAH SHABBIRSHAH FAKIR AND OTHERS

VERSUS

THE STATE OF MAHARASHTRA THROUGH ITS, THE EXECUTIVE
ENGINEER, MINOR IRRIGATION DEPT., JALGAON AND OTHERS

WITH

CIVIL APPLICATION NO.5074/2020 IN FIRST APPEAL NO.944/2020
SK. SALIM SK. NABI

VERSUS

THE STATE OF MAHARASHTRA THROUGH ITS, THE EXECUTIVE
ENGINEER, MINOR IRRIGATION DEPT., JALGAON AND OTHERS

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Mr. Vijay B. Patil, Advocate for applicants.

Shri S.D. Dhongade, Advocate for respondent nos.1 & 4.

Mr. S.Y. Mahajan, Mr. P.K. Lakhotiya & P.N. Kutti, AGPs for respondent nos.2 & 3.

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CORAM: V.L. ACHLIYA, J.

DATE: 21.08.2020

PER COURT :

1] The applicants – claimants in respective appeals have moved these applications seeking withdrawal of amount deposited by the appellant – acquiring body.

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 16.9.2019 passed by this Court to stay the execution of award passed by the Reference Court on deposit of amount in terms of award passed, the appellant – acquiring body, the appellant has deposited the amount to the extent of 25% of award passed by the Reference Court.

4] 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 amount deposited by the appellant – acquiring body.

5] 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 @ Rs. Rs.1,44,000/- per Hectare has been enhanced to Rs.3,40,000/- per Hectare for Jirayat land and Rs.6,80,000/- per Hectare for Bagayat land 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.

6] 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	CA No.5064/20 in FAST No.28705/19	684936.00
2	CA No.5073/20 in FA No.745/20	249306.00
3	CA No.5075/20 in FA No.743/20	1499692.00
4	CA No.5076/20 in FA No.744/20	2249642.00
5	CA No.5079/20 in FA No.3049/20	956216.00
6	CA No.5068/20 in FAST No.28644/19	824122.00
7	CA No.5065/20 in FAST No.28640/19	1417722.00
8	CA No.5067/20 in FAST No.28637/19	3038719.00
9	CA No.5072/20 in FA No.943/20	1412460.00
10	CA No.5074/20 in FA No.944/20	322074.00

7] On due consideration of the submissions, I am of the view that the applicants - claimants be permitted to withdraw the amount deposited in their respective cases as deposit of amount is to the extent of 25% of award passed by the Reference Court. On deposit of further amount, the orders as to investment of such amount as well as further withdrawal of amount can be considered in the light of challenge raised in respective appeals. Hence, the following order.

ORDER

A] The applicants - claimants in respective appeals are permitted to withdraw the amount deposited by the appellant - acquiring body in respective appeals i.e. as per report of Nazir on their furnishing undertaking to the satisfaction of Registrar (Judicial) to the effect that in the event the award/s passed by the Tribunal is/are set aside

or modified, the applicants – claimants shall re-deposit the amount within eight weeks from the date of passing of such order.

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

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

D] On deposit of further amount by the appellant – acquiring body as per order dated 16.9.2019 passed by this Court, further orders as to investment or withdrawal will be passed after considering the contentions raised by the appellant – acquiring body.

E] The payments in terms of order shall be made to respective applicants – claimants in their personal savings bank accounts. No request be entertained to make payment to General / Special Power of Attorney holder of any of the applicants – claimants.

F] The applications are disposed of in above terms.

(V.L. ACHLIYA, J.)