

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CIVIL APPLICATION NO.5179/2020
IN FIRST APPEAL (ST.) NO.26311/2018

KAKASAHEB TUKARAM DESHMUKH
VERSUS
EXECUTIVE ENGINEER, MINOR IRRIGATION DIVISION, LATUR.
& OTHERS.

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Shri A.D. Sonkawade, Advocate for applicant – claimant.
Shri V.C. Solshe, Advocate for respondent no.1 / appellant – acquiring body.
Shri S.K. Tambe, AGP for respondent nos.2 & 3.

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CORAM: V.L. ACHLIYA, J.
DATE: 25.08.2020

PER COURT :

1] The applicant – claimant has moved this application seeking withdrawal of amount deposited by the appellant – acquiring body. Perused the award.

2] In brief, it is the contention of learned counsel for the appellant – acquiring body that the compensation awarded by the Reference Court is excessive and unsustainable both on facts and in law. It is submitted that the compensation awarded by the Special Land Acquisition Officer at the rate of Rs.23,000/- per Acre has been enhanced to Rs.7,92,000/- per Acre by the Reference Court. It is submitted that the land is acquired for construction of canal and situated much beyond the city of Latur. The sale instances considered by Reference Court cannot be considered as comparable sale instances to determine the enhanced compensation.

3] On the other hand, learned counsel for the applicant – claimant supported the award passed by the Reference Court. It is submitted that the acquired land is situated at a distance of about 2 Kms. from the outer limit of city of Latur. Considering the non-agricultural potential, the Reference Court has assessed the compensation at the rate of Rs.7,92,000/- per Acre.

4] On due consideration of the submissions advanced in the light of challenge raised in the appeal and the enhancement of compensation is about 30 times more than the amount awarded by the Land Acquisition Officer, I am inclined to pass the following order.

ORDER

A] The applicant – claimant is permitted to withdraw the amount to the extent of 25% of the amount deposited by the appellant – acquiring body on condition to file undertaking to the satisfaction of Registrar (Judicial) that in the event the award passed by the Reference Court is set aside or modified, the applicant – claimant shall re-deposit the amount within eight weeks from the date of passing of such order.

B] After making payment to the extent of 25% to the applicant – claimant as above, 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.

C] Withdrawal of amount by the applicant - claimant shall be subject to final outcome of the appeal.

D] The amount permitted to be withdrawn be transferred to the personal savings bank account of the applicant - claimant on furnishing particulars of his savings bank account.

E] In case the applicant is unable to attend personally due to age factor or situation of pandemic, the Registrar (Judicial) to consider other available options for verification.

F] The application is disposed of in above terms.

(V.L. ACHLIYA, J.)