

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

BENCH AT AURANGABAD

CIVIL APPLICATION NO.5222/2020
IN FIRST APPEAL NO.3233/2019

KARBHARI KISAN NEHARKAR
VERSUS
THE G.M.I.D.C. THROUGH THE EXECUTIVE ENGINEER, BEED IRRIGATION
DIVISION, BEED AND OTHERS

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CIVIL APPLICATION NO.5219/2020
IN FIRST APPEAL NO.3232/2019

MALHARI TUKARAM BARGAJE & OTHERS
VERSUS
THE G.M.I.D.C. THROUGH THE EXECUTIVE ENGINEER, BEED IRRIGATION
DIVISION, BEED AND OTHERS

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CIVIL APPLICATION NO.5220/2020
IN FIRST APPEAL NO.3235/2019

KAUSALYABAI DNYANOBA NEHARKAR
VERSUS
THE G.M.I.D.C. THROUGH THE EXECUTIVE ENGINEER, BEED IRRIGATION
DIVISION, BEED AND OTHERS

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CIVIL APPLICATION NO.5221/2020
IN FIRST APPEAL NO.3234/2019

SUDAM KISAN NEHARKAR
VERSUS
THE G.M.I.D.C. THROUGH THE EXECUTIVE ENGINEER, BEED IRRIGATION
DIVISION, BEED AND OTHERS

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CIVIL APPLICATION NO.5223/2020
IN FIRST APPEAL NO.3231/2019

JALINDHAR KARBHARI NEHARKAR & OTHERS
VERSUS
THE G.M.I.D.C. THROUGH THE EXECUTIVE ENGINEER, BEED IRRIGATION
DIVISION, BEED AND OTHERS

Shri S.S. Dargad Advocate h/f Shri A.V. Thombre, Advocate for applicants.
Shri Anil M. Gaikwad, Advocate for appellant – acquiring body.

CORAM: V.L. ACHLIYA, J.

DATE: 08.09.2020

PER COURT :

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

2] Heard learned counsel for the applicants – claimants and learned counsel representing the appellant – acquiring body.

3] In brief, it is the contention of learned counsel for the appellant that the award passed by the Reference Court is not sustainable in law. The enhancement of compensation is excessive and above 10 times the compensation awarded by the Land Acquisition Officer. It is submitted that the Land Acquisition Officer awarded compensation at the rate of Rs.345/- per Aare. The Reference Court has enhanced the same to Rs.3750/- per Aare. In that view, the enhancement of compensation is more than 10 times.

It is further submitted that separate compensation cannot be awarded on account of fruit bearing trees once the compensation is awarded considering the land as irrigated land. In this background, the learned counsel submits that the appellant has good case to succeed in appeals.

4] On the other hand, learned counsel for the applicants – claimants submits that the compensation determined is based upon the evidence adduced in the case. The Reference Court has considered the sale instances. It is further submitted that though the appellant is directed to deposit the amount in terms of award passed by the Reference Court, the deposit of amount is only to the extent of 50% of the amount in terms of the award. In this background, the learned counsel submits that the applicants deserve to be permitted to withdraw the entire amount deposited.

5] By order dated 25.8.2020, Nazir of this Court was directed to report as to deposit of the amount in the matter and the amount available for disbursement. The Nazir has reported as under:-

Sr.No.	Matter No.	Amount
1	C.A.No.5222/2020 in F.A.No.3233/2019	4432820=00
2	C.A.No.5219/2020 in F.A.No.3232/2019	908810=00
3	C.A.No.5220/2020 in F.A.No.3235/2019	1608530=00
4	C.A.No.5221/2020 in F.A.No.3234/2019	807920=00
5	C.A.No.5223/2020 in F.A.No.3231/2019	3874380=00

6] On due consideration of the submissions advanced in the light of challenge raised in the appeals and the enhancement of compensation being 10 times more than the compensation awarded by the Land Acquisition Officer, I am of the view that there is arguable case to be considered in the appeals. In order to protect the interest of the appellant, request for withdrawal of entire amount cannot be granted. Accordingly, following order is passed.

ORDER

A] The applicants – claimants in respective appeals are permitted to withdraw the amount to the extent of 50% of the amount deposited by appellant – acquiring body in respective appeals on furnishing undertaking to the effect that in the event the award is set aside or modified, the applicants – claimants shall re-deposit the amount within eight weeks from the date of such order.

B] After making payment to the extent of 50%, the balance amount be invested in fixed deposit with State Bank of India initially for a period of three years with standing instructions to renew the same till further orders from the Court.

C] Payment be made to the applicants – claimants by transferring the amount in their individual savings bank

accounts as per the particulars to be furnished by the applicants.

D] Civil applications are disposed of in above terms.

(V.L. ACHLIYA, J.)