

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

**906 CIVIL APPLICATION NO. 5314 OF 2020
IN
FIRST APPEAL NO. 548 OF 2019**

SAHEBRAO KISAN NIMSE

VERSUS

**THE STATE OF MAHARASHTRA THR.
S.L.A.O. NO. 12, AHMEDNAGAR.**

WITH

CIVIL APPLICATION NO. 5315 OF 2020

IN

FIRST APPEAL NO. 547 OF 2019

KESHAV KISAN NIMSE

VERSUS

**THE STATE OF MAHARASHTRA THR.
S.L.A.O. NO. 12, AHMEDNAGAR.**

WITH

CIVIL APPLICATION NO. 5317 OF 2020

IN

FIRST APPEAL NO. 545 OF 2019

SHIVAJI CHIMAJI NIMSE AND ANR.

VERSUS

**THE STATE OF MAHARASHTRA THR.
S.L.A.O. NO. 12, AHMEDNAGAR.**

WITH

CIVIL APPLICATION NO. 5318 OF 2020

IN

FIRST APPEAL NO. 544 OF 2019

MAHADEO SAHEBRAO NIMSE AND ANR.

VERSUS

**THE STATE OF MAHARASHTRA THR.
S.L.A.O. NO. 12, AHMEDNAGAR.**

WITH

CIVIL APPLICATION NO. 5319 OF 2020

IN

FIRST APPEAL NO. 542 OF 2019

MANJABAPU DHONDIBA NIMSE AND ORS.

VERSUS

THE STATE OF MAHARASHTRA AND ORS.

WITH

CIVIL APPLICATION NO. 5320 OF 2020
IN
FIRST APPEAL NO. 538 OF 2019

BAJIRAO KONDIBA NIMSE
VERSUS
THE STATE OF MAHARASHTRA AND ORS.
WITH
CIVIL APPLICATION NO. 5321 OF 2020
IN
FIRST APPEAL NO. 540 OF 2019

BALBHIM LAXMAN NIMSE
VERSUS
THE STATE OF MAHARASHTRA AND ORS.
WITH
CIVIL APPLICATION NO. 5322 OF 2020
IN
FIRST APPEAL NO. 541 OF 2019

KISAN DAGADU NIMSE THR. L.RS. AND ORS.
VERSUS
THE STATE OF MAHARASHTRA AND ORS.
WITH
CIVIL APPLICATION NO. 5323 OF 2020
IN
FIRST APPEAL NO. 546 OF 2019

KESHAV KISAN NIMSE
VERSUS
THE STATE OF MAHARASHTRA THR.
S.L.A.O. NO. 12, AHMEDNAGAR.
WITH
CIVIL APPLICATION NO. 5324 OF 2020
IN
FIRST APPEAL NO. 686 OF 2018

DNYANESHWAR RAMDAS NIMSE AND ORS.
VERSUS
THE STATE OF MAHARASHTRA THR.
S.L.A.O. NO. 12, AHMEDNAGAR.

WITH
CIVIL APPLICATION NO. 5325 OF 2020
IN
FIRST APPEAL NO. 685 OF 2018

BAHIRU DHONDIBA NIMSE
VERSUS
THE STATE OF MAHARASHTRA AND ORS.
WITH
CIVIL APPLICATION NO. 5326 OF 2020
IN
FIRST APPEAL NO. 691 OF 2018

RAMDAS KISAN NIMSE
VERSUS
THE STATE OF MAHARASHTRA AND ORS.
WITH
CIVIL APPLICATION NO. 5327 OF 2020
IN
FIRST APPEAL NO. 690 OF 2018

LIMBRAJ DAGADU NIMSE AND ORS.
VERSUS
THE STATE OF MAHARASHTRA AND ORS.
WITH
CIVIL APPLICATION NO. 5328 OF 2020
IN
FIRST APPEAL NO. 688 OF 2018

SADASHIV KHIRUJI NIMSE THR. L.RS. AND ORS.
VERSUS
THE STATE OF MAHARASHTRA AND ORS.
WITH
CIVIL APPLICATION NO. 5329 OF 2020
IN
FIRST APPEAL NO. 689 OF 2018

SUNDAR BABA NIMSE THR. L.RS. AND ORS.
VERSUS
THE STATE OF MAHARASHTRA THR.
S.L.A.O. NO. 12, AHMEDNAGAR.

.....
Mr. Shoyab Shaikh, Advocate for Applicant.
Mr. N.T.Bhagat, A.G.P. for State.

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CORAM : V.L.ACHLIYA, J.
DATE : 18/09/2020
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ORAL ORDER :

1. The applicants/claimants have moved these applications seeking withdrawal of amount deposited by appellant in terms of order passed by this Court.

2. Heard learned counsel for applicants/claimants and learned A.P.P.

3. In brief, it is the contention of learned counsel for applicants that the Appeals filed are devoid of merit. The reference Court has enhanced the compensation on due analysis of evidence adduced in the case. It is submitted that the applicants are deprived of legitimate claim to receive compensation of their lands acquired way-back in the year 2005. It is submitted that the Special Land Acquisition Officer has awarded the compensation @ Rs. 1,040/- per R. for Jirayat land and Rs. 1,560/- per R. for seasonally irrigated land. The Reference Court has enhanced the same to Rs. 3,280/- per R. for Jirayat land and Rs. 4,920/- per R. for seasonally irrigated land.

4. Learned A.P.P. submits that appellants have good case to succeed in Appeal. In case compensation deposited by appellant is allowed to be withdrawn, it will be difficult to recover the amount in case the Appeals are allowed or the Award passed by Reference Court is modified.

5. Pursuant to the direction given on 04/09/2020, the Nazir has submitted the report. As per the report, the amount deposited in above mentioned applications is as under.

Sr.No.	Matter No.	Amount
1.	CA/5314/2020 IN FA/548/2019	8,14,427.00
2.	CA/5315/2020 IN FA/547/2019	7,99,622.00
3.	CA/5317/2020 IN FA/545/2019	1,55,879.00
4.	CA/5318/2020 IN FA/544/2019	8,21,831.00
5.	CA/5319/2020 IN FA/542/2019	13,32,701.00
6.	CA/5320/2020 IN FA/538/2019	13,32,701.00
7.	CA/5321/2020 IN FA/540/2019	9,55,103.00
8.	CA/5322/2020 IN FA/541/2019	60,77,472.00
9.	CA/5323/2020 IN FA/546/2019	7,99,622.00
10.	CA/5324/2020 IN FA/686/2018	4,28,961.00
11.	CA/5325/2020 IN FA/685/2018	12,07,908.00
12.	CA/5326/2020 IN FA/691/2018	17,72,044.00
13.	CA/5327/2020 IN FA/690/2018	58,456.00
14.	CA/5328/2020 IN FA/886/2018	22,01,782.00
15.	CA/5329/2020 IN FA/689/2018	4,76,626.00

6. Learned counsel for applicants submits that in Civil Application No. 11729 of 2019 filed in First Appeal No. 684 of 2018 arising out of same acquisition and Award passed by Reference Court, this Court has allowed the withdrawal of amount to the extent of 60%.

7. Having regard to submissions advanced, the

challenge raised in Appeal and the enhancement of compensation being about three times the compensation awarded, I am of the view the applicants deserves to be allowed to withdraw the amount to the extent of 65% on furnishing written undertaking to the effect that in case the Award is set aside or modified, the applicants shall redeposit the same within eight weeks. Hence, the following order.

ORDER

[i] The applications are allowed.

[ii] The applicants/claimants in respective Appeals are permitted to withdraw the amount to the extent of 65% of amount deposited in their respective case by the appellant/acquiring body on furnishing written undertaking to the effect that in the event the Award is set aside or modified the applicants shall redeposit the amount within eight weeks from the date of passing of such order.

[iii] The amount shall be paid to the applicants by way of transfer in their respective savings bank account on furnishing particulars of their bank account.

[iv] No amount to be paid to a person other than claimant including power of attorney holder.

8. The applications are disposed of in above terms.

[V.L.ACHLIYA]
JUDGE

KNP