

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

**922. CIVIL APPLICATION NO.6165 OF 2020
IN FIRST APPEAL NO.2273 OF 2018**

**NARAYAN LAXMAN KAMBLE
VERSUS
THE STATE OF MAHARASHTRA & ANOTHER**

**WITH
CIVIL APPLICATION NO.6166 OF 2020
IN FIRST APPEAL NO.2274 OF 2018**

**BAPURAO GANPATI SEDAPE [DIED]
THROUGH L.Rs.KONDIBA BAPURAO SEDAPE
VERSUS
THE STATE OF MAHARASHTRA & ANOTHER.**

**WITH
CIVIL APPLICATION NO.6167 OF 2020
IN FIRST APPEAL NO. 2275 OF 2018**

**DATTU BALAJI WAGALGAVE AND ANOTHER
VERSUS
THE STATE OF MAHARASHTRA & ANOTHER**

**WITH
CIVIL APPLICATION NO.6168 OF 2020
IN FIRST APPEAL NO.2276 OF 2018**

**RAOSAHEB MAHADU KALE
VERSUS
THE STATE OF MAHARASHTRA & ANOTHER**

**WITH
CIVIL APPLICATION NO.6169 OF 2020
IN FIRST APPEAL NO.2277 OF 2018**

**MAHADEO @ MAHADU LAXMAN KAMBLE
VERSUS
THE STATE OF MAHARASHTRA & ANOTHER**

WITH

CIVIL APPLICATION NO.6170 OF 2020
IN FIRST APPEAL NO.2278 OF 2018

LAXMAN NAGORAO KAMBLE
VERSUS
THE STATE OF MAHARASHTRA & ANOTHER

WITH

CIVIL APPLICATION NO.6171 OF 2020
IN FIRST APPEAL NO.2279 OF 2018

GOVIND LAXMAN KAMBLE
VERSUS
THE STATE OF MAHARASHTRA & ANOTHER

WITH

CIVIL APPLICATION NO.6172 OF 2020
IN FIRST APPEAL NO.2280 OF 2018

GOPAL LAXMAN KAMBLE
VERSUS
THE STATE OF MAHARASHTRA & ANOTHER

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Mr.G.K.Sontakke, Advocate for the applicants
Mr.P.M.Kulkarni, AGP for the respondent-State
Mr.S.G.Bhalerao, Advocate for the respondent
no.2.

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CORAM : V.L.ACHLIYA,J.
DATE : 15.12.2020

P.C.

1] The applicants have moved these
applications seeking withdrawal of the
amount.

2] Heard learned counsel for the applicants – claimants, learned counsel for the appellant and learned AGP for the respondent – State.

3] In brief, it is the contention of the learned counsel for the applicants that appeals filed are devoid of merits. The compensation assessed by the Reference Court based upon the evidence adduced in the case. There is no evidence to establish that the compensation awarded by the Reference Court is excessive. It is submitted that the land was acquired in the year 1996 for the minor irrigation project. The SLAO has awarded compensation @ Rs.31,000/- per hector [i.e. Rs.12,400/- per acre] by ignoring the use of land. The Reference Court, on due analysis of the evidence, has awarded compensation at the rate of Rs.1 lac per acre for *jirayat* land and Rs.2 lac per acre for irrigated land. In this background, learned counsel submits that the compensation awarded deserves no interference in exercise of the appellate jurisdiction of the Court.

4] On the other hand, learned counsel for the appellant – acquiring body opposed

the application with contention that the appellant has good case to succeed in appeal. It is submitted that the enhancement of compensation is about 8-9 times. The compensation assessed by the SLAO is exorbitant and without any supporting evidence to enhance the compensation. It is submitted that the judgment and award passed by the Reference Court not discloses the area of land the sale instance which has been considered to enhance the compensation. It is submitted that the sale instance referred and relied not pertains to the similarly situated land. The interest has been awarded from the date of notification which is contrary to the decision of the full bench in the case of in the case of ***State of Maharashtra Vs. Kailash Shiva Rangari*** reported in ***2016 [3] Mh.L.J. 457***. In this background, learned counsel submits that the appellant has good case to succeed in appeal. In case the applicants are permitted to withdraw the amount, the purpose of filing of the appeals would be frustrated and it will be difficult to recover the amount in case award is set aside or modified.

5] On due consideration of the

submissions advanced and taken into consideration that the land in question has been acquired way back in the year 1996 and the applicants – claimants are depriving of the right to receive the legitimate compensation from last more than 24 years, I am of the view that the applicants – claimants be permitted to withdraw the amount to the extent of 60% of the amount deposited by the appellant – acquiring body on furnishing undertaking. Hence the following order :

ORDER

i] The applicants claimants in respective Appeals are permitted to withdraw the amount to the extent of 60% of the amount deposited by the appellant – acquiring body on furnishing undertaking to the satisfaction of the Registrar [Judicial] to the effect that in the event award is set aside or modified, the applicants – claimants shall re-deposit the amount within eight [8] weeks from the date of passing of order by this Court.

ii] The amount shall be paid to applicants-claimants in respective appeals by

transferring the amount in their respective savings bank account as per particulars to be furnished by individual applicants – claimants. No payment to be made to any third person including General Power of Attorney Holder.

iii] Withdrawal of the amount shall be subject to final outcome of the Appeals.

iv] Civil Applications are disposed of in above terms.

[V.L.ACHLIYA]
JUDGE

DDC