

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

**10 CIVIL APPLICATION NO. 7522 OF 2020
IN FIRST APPEAL NO. 3391 OF 2019
WITH
CIVIL APPLICATION NO. 7523 OF 2020
IN FIRST APPEAL NO. 3392 OF 2019**

**VAIJINATH RAMLING DHOBLE
VS
GMIDC THROUGH EXECUTIVE ENGINEER AND OTHERS**

Mr. Vivekanand V. Ingale, Advocate for the applicant
Mr. P. S. Shinde, Advocate for respondent No.1
Mr. P. M. Kulkarni, AGP for the respondent/State

CORAM : V. L. ACHLIYA, J.

DATE : 07-12-2020

P. C.

. The applicant-claimant has moved this application seeking withdrawal of amount deposited by the appellant.

2. Heard learned counsel for the applicant and the respondents. Perused the award passed by the reference court.

3. In brief, it is the contention of the learned counsel for the appellant-acquiring body that the compensation awarded by the reference court is excessive and unsustainable in law. It is submitted that the compensation awarded by the Special Land Acquisition Officer at the rate of Rs. 210/- per R has been enhanced by the reference court at the rate of Rs.2100/- per R. It is further

submitted that no evidence adduced on the part of the claimants to support the enhancement at the rate of Rs. 2100/- per R. It is further submitted that reference court has enhanced the compensation on the basis of award passed in another reference having no similarity.

4. On the other hand, learned counsel for the applicants-claimants submit that there is no merit in the appeal preferred. It is also submitted that decision relied by the reference court is in respect of acquisition of land from same village and from same project. It is submitted that in connected appeals this court vide order dated 03-12-2019 permitted to withdraw the amount to the extent of 70%.

5. In counter to submission advanced learned counsel for the appellant submits that compensation deposited in connected matters was meager amount and therefore, allowed to withdraw the amount to the extent of 70% of amount deposited. In the instant case amount deposited is huge amount. In case the appeal is allowed it will be difficult to recover the amount.

6. On due consideration of the submissions advanced in the light of challenge raised in the appeal and enhancement being 10 times the compensation awarded by the Special Land Acquisition Officer, I am of the view that the applicant be permitted to withdraw the amount to the extent of 60% of amount deposited by the appellant subject to filing usual undertaking.

7. Accordingly the applications are partly allowed. Applicant is permitted to withdraw the amount to the extent of 60% of amount deposited by appellant subject to filing undertaking to the satisfaction of Registrar (Judicial) that in the event of award is set aside or modified then the applicant shall re-deposit the amount within eight weeks from date of passing of judgment and order by this court. The balance amount be invested in fixed deposit with Nationalized Bank till disposal of appeal, if not already invested. The applications are disposed of in above terms.

[V. L. ACHLIYA, J.]