

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

923 CIVIL APPLICATION NO.8257 OF 2020
IN FIRST APPEAL NO.2382 OF 2019

GANPATI BHAGWAN DESHMANE AND ANR.
AND
EXECUTIVE ENGINEER, MINOR IRRIGATION
DIVISION, OSAMANABD AND ANR.

...
Mr.V.V. Ingale, Advocate for applicants.
Mr.V.C. Solshe, Advocate for respondent no.1
Mr.P.M. Kulkarni, AGP for respondent/State.

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CORAM : V.L.ACHLIYA,J.
DATE : 11.12.2020

ORAL ORDER :

. The applicants – claimants have moved this application seeking withdrawal of amount for the reasons set out in detail in the application.

2. In brief, it is the contention of learned counsel for the applicants that 60 R land was acquired way back in the year 1996 for the purposes of Minor Irrigation Project. The award was passed in the year 1996. The applicants have deprived of their legitimate claim to receive the compensation of the land acquired for last more than 25 years. It is submitted that the appeal preferred is devoid of merit.

3. 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 by the Reference Court is excessive and without supporting the evidence. It is submitted that the SLAO has assessed the compensation @ Rs.165/- per R which has been enhanced by the Reference Court to Rs.1,258/- per R i.e. about seven times of compensation assessed by the S.L.A.O. It is further submitted that the land is shown as seasonal irrigated land and the compensation assessed on the basis of sale instance which is of Bagayat land. The interest has been awarded from the date of notification, which is contrary to law laid down by this Court in Full Bench decision in the case of **State of Maharashtra V/s Kailash Shiva Rangari** reported in 2016(3)Mh.L.J. 457.

4. On due consideration of submissions advanced in the light of challenge raised in appeal, I am of the view, the passing of following order would meet the ends of justice. Hence the following order :-

ORDER

(i) The applicants are permitted to withdraw the amount to the extent of 60% on furnishing written undertaking to the satisfaction of the Registrar (Judicial) 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 the order.

(ii) After making the payment to the extent of 60%, the balance amount be invested in Fixed Deposit with any Nationalized Bank if already not invested till the disposal of the appeal.

(iii) The withdrawal of amount shall be subject to final outcome of appeal.

(iv) The application is disposed of in above terms.

[V.L.ACHLIYA]
JUDGE

SGA