

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

**915 CIVIL APPLICATION NO.6901 OF 2020
IN FIRST APPEAL NO.1917 OF 2020**

**HIMMAT DAULAT TADAVI (DIED)
THROUGH L.Rs.
RASHID HIMMAT TADAVI
VERSUS
THE SPECIAL LAND ACQUISITION OFFICER JALGAON
AND ANOTHER**

...
Mr.Kumar Gaurav M.More, Advocate for the
applicant.
Mr.P.M.Kulkarni, AGP for the respondent-
State.
Mr.S.D.Dhongade, Advocate for the respondent
no.2.

...
**CORAM : V.L.ACHLIYA,J.
DATE : 09.12.2020**

P.C.

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

2] Heard learned counsel for the
applicant-claimant and learned advocate for
the appellants-acquiring body.

3] In brief, it is the contention of
the learned counsel for the appellant-
acquiring body that the compensation enhanced

by the Reference Court is without any basis and excessive. It is submitted that the SLAO has awarded compensation @ Rs.46,500/- per hector for *Jirayat* land which has been enhanced to Rs.3 lac per hector by the Reference Court without any evidence to support enhancement. It is submitted that the interest has been awarded from the date of Notification which is contrary to the settled position in law and Full Bench decision of this Court.

4] On the other hand, learned counsel for the applicant-claimant submits that Appeal is devoid of merits. The Reference Court has relied upon the settlement recorded before the *Lok Adalat* in respect of similarly situated land arising out of the same acquisition in which the acquiring body has agreed to pay compensation @ Rs.3 lac per hector for land of similar potential. It is submitted that the amount deposited by the acquiring body is to the extent of only 25% of the amount awarded by the Reference Court. The land in question was acquired in the year 2005 for percolation tank. The applicant – claimant is waiting for compensation to be received from last 15 years and urged to

allow the applicant-claimant to withdraw the amount deposited by the appellant – acquiring body.

5] Considering the submissions advanced, I am of the view that, the applicant-claimant deserved to be permitted to withdraw the amount, which is only to the extent of 25% of compensation awarded by the Reference Court. Hence the application is allowed. The amount deposited by the appellant-acquiring body be paid to the applicant – claimant on furnishing undertaking to the satisfaction of the Registrar [Judicial] that in the event the award is set aside / modified by this Court the applicant - claimant shall re-deposit the amount within eight [8] weeks from the date of passing of such order.

6] The amount be paid to the applicant – claimant by way of transfer to the savings bank accounts of the applicant – claimant as per the particulars of the account to be furnished. No amount to be paid to any person other than the applicant – claimant including Power of Attorney Holder.

7] The withdrawal of the amount shall
be subject to final outcome of the appeal.

8] Civil Application is disposed of in
above terms.

[V.L.ACHLIYA]
JUDGE

DDC