

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

921 CIVIL APPLICATION NO.7399 OF 2020
IN FA/3527/2018

MACHINDRA RAOJI MATSAGAR (DIED) THR. LRS
BHAGITRABAI AND ORS

VERSUS

OFFICER IN CHARGE MIDC AURANGABAD AND ORS

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Mr.A.M. Hajare, Advocate for applicants
Mr.S.S. Dande, Advocate for respondent nos.1
to 3.

Mr.P.M. Kulkarni, AGP for respondent-State.

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CORAM : V.L.ACHLIYA,J.

DATE : 11.12.2020

ORAL ORDER :

1. The applicants – claimants have moved this application seeking withdrawal of amount deposited by the appellants-acquiring body.

2. Heard learned counsel for the applicants – claimants and learned counsel representing the appellants-acquiring body.

3. In brief, it is the contention of learned counsel for the appellants – acquiring body that the compensation awarded is on higher side. The land was acquired for Maharashtra Industrial Development

Corporation way back in the year 1992. The S.L.A.O. has assessed the compensation @ Rs.270/- per R and the Reference Court has enhanced the compensation @ Rs.1352/- per R without evidence supporting the enhancement which is about five times of the compensation assessed by SLAO. It is further submitted that in respect of the same acquisition, there are different awards passed by the Reference Court. The enhancement of compensation is not supported with the evidence to justify the enhancement @ Rs.1352/- per R.

4. On the other hand, learned counsel for the applicants-claimants supported the judgment passed by the Reference Court. It is submitted that the appeal filed is devoid of merit. The land has been acquired for public utility i.e. for industrial purpose. The award passed is based upon the evidence adduced in the case. It is further submitted that in connected appeal the applicants-claimants are allowed to withdraw the amount of compensation to the extent of 50% by filing undertaking and further 20% by furnishing solvent surety. It is submitted that the applicants be permitted to withdraw

the amount on the same terms and conditions.

5. On due consideration of submissions advanced, I am of the view that in the facts and circumstances of the case and challenge raised in the appeal, the applicants-claimants be permitted to withdraw the amount to the extent of 60% of the amount deposited by the appellants-acquiring body. The withdrawal of amount on furnishing solvent surety and the bank guarantee is cumbersome procedure and put the claimants to hardship. The withdrawal of amount subject to undertaking would help the claimants to conveniently withdraw the amount without any onerous conditions. I therefore inclined to pass the following order :-

ORDER

(i) The applicants are allowed 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 such order.

(ii) After paying the amount to the extent of

60%, the balance amount be invested in Fixed Deposit with any Nationalized Bank till the disposal of the appeal if not already invested.

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

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

[V.L.ACHLIYA]
JUDGE

SGA