

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CIVIL APPLICATION NO. 7511 OF 2020
IN
FIRST APPEAL ST. NO.12778 OF 2019
MEHBOOB ISMAIL SHAIKH VERSUS THE STATE OF MAHARASHTRA AND
ORS.
AND
CIVIL APPLICATION NO. 7513 OF 2020
IN
FIRST APPEAL ST. NO.12397 OF 2019
ANJANABAI NAMDEO BURLE VERSUS THE STATE OF MAHARASHTRA &
ORS.

Mr.R.V. Naiknavare, Advocate for the applicants.
Mr.P.M. Kulkarni, AGP for respondent/State.
Ms.S.D. Shelke, Advocate for respondent No.3.

CORAM : V.L.ACHLIYA,J.
DATED : 08.12.2020

P.C. :-

01. The applicants have moved these applications seeking withdrawal of amount deposited by the acquiring body.

02. Learned counsel for the acquiring body opposed the applications with contention that the compensation awarded by the Reference Court is excessive and unsustainable in law. It is submitted that the land in respect of compensation determined by the SLAO at the rate of Rs.6800/- per R has been enhanced to Rs.36,000/- and Rs.48,000/- per R. It is submitted that the

enhancement of compensation is without any evidence being adduced in the case to support the enhancement. The Reference Court has relied upon award passed in respect of land acquired from another village for the purpose of deciding reference. It is submitted that the reference referred and relied has no similarity with the land acquired. It is further submitted that the interest has been awarded from the date of notification, which is contrary to settled position in law.

03. On the other hand, learned counsel for the claimant submitted that the reference referred and relied by the Reference Court refers to adjoining village and in respect of acquisition of land from the same project. The appeal is devoid of merit.

04. On due consideration of the submissions advanced and in the light of challenge raised in the appeal, I am of the view that applicants be permitted to withdraw the amount to the extent of 60% of amount deposited by the acquiring body, in view of the fact that the lands were acquired way back in the year 1995. Hence, following order is passed :-

- i. The applicants are permitted to withdraw amount to the extent of 60% of the

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amount deposited, on furnishing written undertaking that in the event the award is set aside or modified, the applicants shall re-deposit the amount within eight weeks from the date of passing such order.

ii. After making payment to the applicants, balance amount be invested in fixed deposit in any nationalized bank till disposal of appeal.

5. The applications of disposed of in above terms.

[V.L.ACHLIYA,J.]