

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

**24 CIVIL APPLICATION NO. 7504 OF 2020
IN FAST NO. 4638 OF 2020
WITH
CIVIL APPLICATION NO. 7506 OF 2020
IN FAST NO. 4508 OF 2020**

**LATABAI VISHWANATH JAGTAP AND ANR
Vs
THE STATE OF MAHARASHTRA AND ORS**

Mr. A. S. More, Advocate for applicants
Mr. J.R. Patil, Advocate h/f Mr. Gulab B. Rajale, Advocate for the
respondent No. 3
Mr. P. M. Kulkarni, AGP for the respondent/State

CORAM : V. L. ACHLIYA, J.

DATE : 14-12-2020

P. C.

. The applicant 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 assessed by the reference court is not sustainable in law. It is submitted that the Special Land Acquisition Officer has awarded the compensation

at the rate of Rs. 15,000/- per Acre which has been enhanced to Rs. 90,000/- per Acre by the reference court. It is submitted that enhancement made by reference court is six times the compensation awarded by the Special Land Acquisition Officer. The enhancement of compensation based upon sale instance of 22-R of land which cannot be treated as comparable sale instance to be considered for enhancement. The land has been acquired for Seena Kolegaon Irrigation Project. It is submitted that the appellant has good case to succeed in appeal. If the applicants are permitted to withdraw amount deposited then it will be difficult to recover amount if award is set aside or modified.

4. On the other hand learned counsel counsel for the claimant support the award passed by reference court and submits that there is no merit in the appeal preferred and same is devoid of substance.

5. On due consideration of submissions advanced, the challenge raised in appeal, I am of the view that the order in following terms would meet the ends of justice:-

ORDER

- i. The applicants are permitted to withdraw the amount to the extent of 70% of the amount deposited by the appellant acquiring body on furnishing undertaking to the satisfaction of the Registrar (Judicial)

(3)

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to the effect that in the event the award passed by reference court is set aside or modified, the applicants shall re-deposit the amount within eight weeks from the date of passing of such order. After paying the amount to the applicants the balance amount be invested in fixed deposit with any nationalized bank till disposal of appeal, if not already invested.

iii. Payment of amount shall be subject to outcome of appeal.

[V. L. ACHLIYA, J.]

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