

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

**CIVIL APPLICATION NO. 7897 OF 2020
IN
FIRST APPEAL NO. 3719 OF 2019**

Kishor Ramrao Mangalgire ..APPLICANT

VERSUS

State of Maharashtra and Others ..RESPONDENTS

....

Mr. S.S. Panale, Advocate for applicant
Mr. S.P. Sonpawale, A.G.P. for respondent – State

....

**WITH
CIVIL APPLICATION NO. 14050 OF 2019
IN
FIRST APPEAL NO. 3719 OF 2019**

State of Maharashtra and Others ..APPLICANTS

VERSUS

Kishor Ramrao Mangalgire ..RESPONDENT

....

Mr. S.P. Sonpawale, A.G.P. for applicants – State
Mr. S.S. Panale, Advocate for respondent

....

**WITH
CIVIL APPLICATION NO. 7898 OF 2020
IN
FIRST APPEAL NO. 3722 OF 2019**

Namdeo Balram Gomare ..APPLICANT

VERSUS

State of Maharashtra and Others ..RESPONDENTS

....
Mr. S.S. Panale, Advocate for applicant
Mr. S.P. Sonpawale, A.G.P. for respondent – State

....

**WITH
CIVIL APPLICATION NO. 14056 OF 2019
IN
FIRST APPEAL NO. 3722 OF 2019**

State of Maharashtra and Others ..APPLICANTS

VERSUS

Namdeo Balram Gomare ..RESPONDENT

....

Mr. S.P. Sonpawale, A.G.P. for applicants – State
Mr. S.S. Panale, Advocate for respondent

....

**WITH
CIVIL APPLICATION NO. 7899 OF 2020
IN
FIRST APPEAL NO. 3720 OF 2019**

Rukminbai Narayan Kukale
Deceased through L.Rs.
Balaahab Narayan Kukale ..APPLICANT

VERSUS

State of Maharashtra and Others ..RESPONDENTS

....

Mr. S.S. Panale, Advocate for applicant
Mr. S.P. Sonpawale, A.G.P. for respondent – State

....

**WITH
CIVIL APPLICATION NO. 14052 OF 2019
IN
FIRST APPEAL NO. 3720 OF 2019**

State of Maharashtra and Others

..APPLICANTS

VERSUS

Rukminbai Narayan Kukale

Deceased through L.Rs.

Balaahab Narayan Kukale

..RESPONDENT

....

Mr. S.P. Sonpawale, A.G.P. for applicants – State

Mr. S.S. Panale, Advocate for respondent

....

WITH

CIVIL APPLICATION NO. 7900 OF 2020

IN

FIRST APPEAL NO. 3721 OF 2019

Kamalbhai Laxman Shrigandhe

..APPLICANT

VERSUS

State of Maharashtra and Others

..RESPONDENTS

....

Mr. S.S. Panale, Advocate for applicant

Mr. S.P. Sonpawale, A.G.P. for respondent – State

....

WITH

CIVIL APPLICATION NO. 14054 OF 2019

IN

FIRST APPEAL NO. 3721 OF 2019

State of Maharashtra and Others

..APPLICANTS

VERSUS

Kamalbhai Laxman Shrigandhe

..RESPONDENT

....

Mr. S.P. Sonpawale, A.G.P. for applicants – State

Mr. S.S. Panale, Advocate for respondent

....

CORAM : SUNIL P. DESHMUKH AND
R.G. AVACHAT, JJ.

DATED : 09th DECEMBER, 2020

PER COURT :

Civil Applications No. 7897 of 2010, 7898 of 2020, 7899 of 2020 and 7900 of 2020 are filed by claimants for withdrawal of land acquisition compensation amount deposited in this court, whereas Civil Applications No. 14050 of 2019, 14056 of 2019, 14052 of 2019 and 14054 of 2019 are filed by State for stay to the impugned judgment and order dated 30th April, 2019.

2. Learned counsel for claimants submits that the acquisition has taken place in 2004 and since then, they have only received the amount of compensation awarded by Special Land Acquisition Officer ('S.L.A.O.'), however have not received any amount towards enhanced compensation pursuant to decision of reference court. Learned counsel purports to contend that claimants require the amount for various purposes and are in need of the same.

3. During the course of submissions learned counsel for claimants refers to order dated 13th April, 2017 in Civil Application No. 5194 of 2016, contending that said order has been passed by the learned single Judge in a matter arising out of decision by reference court in respect of land acquired from same village, for same project and under same notification, wherein he had allowed claimants to withdraw 75% of amount on certain conditions viz; 25% on furnishing undertaking, 25% on furnishing solvent surety and 25%

on furnishing bank guarantee of nationalized bank and in another matter has even allowed to furnish bank guarantee of scheduled/co-operative bank. It is, therefore, urged that claimants be allowed to withdraw the entire amount deposited in this court.

4. On the other hand, learned A.G.P. submits that while S.L.A.O. had granted compensation at the rate of Rs.1,215/- per *Are*, enhancement in the same has been too steep and compensation has been granted on per square foot basis at the rate of Rs.166/- in reference decision. He further submits that enhancement under reference decision would not commensurate with evidence on record. It would emerge that evidence would not bear such a steep rise in rate of compensation. He, therefore, urges that the order passed by learned single Judge may not be taken as guide in the present situation.

5. S.L.A.O. had granted compensation considering larger area as the basis for determination of compensation at a particular rate and reference court appears to have considered a smaller area as the basis for determination of compensation. In the circumstances, enhancement turns out to be almost 160 times more than the one granted by S.L.A.O.

6. In the circumstances, it would be expedient that claimants are allowed to withdraw 50% of the deposited amount on following conditions :-

(a) The claimants are allowed to withdraw 25% of the amount deposited in this court on filing undertaking to the effect that in case decision goes adverse to their interest in first appeal, they would refund/re-deposit/pay back the amount in this court within a period of eight weeks of the decision in first appeal as would be required pursuant the decision.

(b) 25% of the amount deposited be allowed to be withdrawn by claimants on furnishing solvent surety/security to the satisfaction of Registrar (Judicial) of this court.

7. Civil applications for withdrawal of amount, accordingly stand disposed of.

8. In view of aforesaid, interim relief of stay to the impugned judgment and order of award becomes absolute and said civil applications accordingly stand disposed of.

(R.G. AVACHAT, J.)

(SUNIL P. DESHMUKH, J.)

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