

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

**CIVIL APPLICATION NO. 7901 OF 2020  
IN  
FIRST APPEAL NO. 3714 OF 2019**

Govind Nivrutti Mashal ..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. 14028 OF 2019  
IN  
FIRST APPEAL NO. 3719 OF 2019**

State of Maharashtra and Others ..APPLICANTS

VERSUS

Govind Nivrutti Mashal ..RESPONDENT

....

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

....

**WITH  
CIVIL APPLICATION NO. 7902 OF 2020  
IN  
FIRST APPEAL NO. 3716 OF 2019**

Trimbak Bapurao Shelke  
(Deceased through L.Rs.)  
Trivenibai Trimbak Shelke and Others ..APPLICANTS

VERSUS

State of Maharashtra and Others ..RESPONDENTS

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

**WITH  
CIVIL APPLICATION NO. 14032 OF 2019  
IN  
FIRST APPEAL NO. 3716 OF 2019**

State of Maharashtra and Others ..APPLICANTS  
  
VERSUS  
  
Trimbak Bapurao Shelke  
(Deceased through L.Rs.)  
Trivenibai Trimbak Shelke and Others ..RESPONDENTS

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

**WITH  
CIVIL APPLICATION NO. 7903 OF 2020  
IN  
FIRST APPEAL NO. 3717 OF 2019**

Yenka Sakharam Shelke ..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. 14034 OF 2019  
IN  
FIRST APPEAL NO. 3717 OF 2019**

State of Maharashtra and Others ..APPLICANTS  
  
VERSUS

Yenka Sakharam Shelke

..RESPONDENT

....

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

Mr. S.S. Panale, Advocate for respondent

....

**WITH  
CIVIL APPLICATION NO. 7904 OF 2020  
IN  
FIRST APPEAL NO. 3715 OF 2019**

Arun Lingram Chamle

..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. 14030 OF 2019  
IN  
FIRST APPEAL NO. 3715 OF 2019**

State of Maharashtra and Others

..APPLICANTS

VERSUS

Arun Lingram Chamle

..RESPONDENT

....

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

Mr. S.S. Panale, Advocate for respondent

....

**WITH  
CIVIL APPLICATION NO. 7905 OF 2020  
IN  
FIRST APPEAL NO. 3718 OF 2019**

Bhagwat Raosaheb Boyane

..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. 14036 OF 2019  
IN  
FIRST APPEAL NO. 3718 OF 2019**

State of Maharashtra and Others

..APPLICANTS

**VERSUS**

Bhagwat Raosaheb Boyane

..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 : 09<sup>th</sup> DECEMBER, 2020**

**PER COURT :**

Civil Applications No. 7901 of 2010, 7902 of 2020, 7903 of 2020, 7904 of 2020 and 7905 of 2020 are filed by claimants for withdrawal of land acquisition compensation amount deposited in this court, whereas Civil Applications No. 14028 of 2019, 14032 of 2019, 14034 of 2019, 14030 of 2019 and 14036 of 2019 are filed by State for stay to the impugned judgment and order dated 12<sup>th</sup> June, 2019.

2. Learned counsel for claimants submits that the acquisition has taken place in 2005 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 13<sup>th</sup> 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.1,200/- 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. )  
SSD

( SUNIL P. DESHMUKH, J. )