

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CIVIL APPLICATION NO.7888 OF 2020
IN FA/3261/2016

JAGANNATH KAUTIK SAINDANE
VERSUS
THE SPECIAL LAND ACQUISITION OFFICER-2, UPPER TAPI
PROJECT, HATNUR, JALGAON AND ORS

Mr.D.B. Pokale, Advocate for the applicant.

Mr.S.S. Chillarge, Adovcate for respondent/Acquiring
body.

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

CORAM : V.L.ACHLIYA,J.

DATED : 02.12.2020

P.C. :-

01. The applicant-claimant has moved this application seeking withdrawal of amount deposited by the appellant.

02. Heard learned counsel for the applicant and the respondent. Perused the award passed by the Reference Court.

03. In brief, it is contention of the learned counsel for the appellant-acquiring body that the award passed by the Reference Court is excessive and unsustainable in law. It is submitted that the Special

Land Acquisition Officer has awarded compensation at the rate of Rs.1,15,500/- per hectare and Rs.1,43,500/- per hectare. The Reference Court has enhanced the compensation by treating the land is having non-agricultural potential and awarded compensation to be assessed at the rate of Rs.100 per sq. mtr. It is submitted that the compensation enhanced by the Reference Court is more than 10 times the compensation awarded by the Special Land Acquisition Officer. It is submitted that the appellants have good case to succeed in appeal.

04. On the other hand, learned counsel for the claimant submits that there is no merit in the appeal preferred. The compensation assessed by the Tribunal is in accordance with law and evidence adduced in the case. In connected matters, this Court has allowed to withdraw the amount to the extent of 50% of award on furnishing usual undertaking and 25% by furnishing solvent security.

05. On due consideration of the submissions advanced, following order is passed :-

i. The application is allowed in terms of order dated 12.12.2019, passed by this Court in Civil Application No.13821 of 2019 in First Appeal No.3254 of 2016 with connected matters,

arising out of same acquisition.

ii. The applicant is permitted to withdraw 50% of the amount deposited.

iii. Out of 50% of the amount permitted to be withdrawn, the amount to the extent of 25% be paid to the applicant on furnishing usual undertaking to the satisfaction of the Registrar (Judicial) that in the event the award is set aside, the applicant shall redeposit the amount.

iv. The balance amount of 25% be permitted to be withdrawn by furnishing solvent security.

[V.L.ACHLIYA,J.]