

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

**911 CIVIL APPLICATION NO.10319 OF 2019
IN FA/3607/2019**

**NARSAPPA IRAPPA KABADE (DIED) THR LRS
MALAVBAI AND ORS
VERSUS
THE STATE OF MAHARASHTRA AND ANR**

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Mr.L.C. Patil, Advocate for applicants.
Mr.P.M. Kulkarni, AGP for respondent/State
Mr.Mukul S. Kulkarni, Advocate for respondent
no.2.

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**CORAM: V.L. ACHLIYA,J.
DATE : 04.12.2020**

ORAL ORDER:

The applicants-claimants have moved this application seeking withdrawal of amount deposited by the appellant-acquiring body for the reasons set out in detail in the application.

2. Heard learned counsel for applicants-claimants, learned A.G.P. representing the respondent No.1 and learned counsel representing the respondent no.2-acquiring body. Perused the judgment and award.

3. In brief, it is the contention of learned counsel for the appellant-acquiring body that the award passed by the Reference Court is not sustainable in law. There is no cogent and convincing reasons to enhance the compensation awarded by the Special Land Acquisition Officer. It is submitted that the S.L.A.O. awarded the compensation @ Rs.60,000/- per hector, which has been enhanced to Rs.2,58,064/- by the Reference Court. It is submitted that the land acquired is a dry crop land. Without any evidence to prove that the land is seasonally irrigated land, the Reference Court has enhanced the compensation treating the land acquired as seasonally irrigated land. In this background learned counsel for the appellant submits that there is arguable case in favour of the appellant. In case, the applicants are permitted to withdraw the amount, it will be difficult to recover the same.

4. On the other hand, learned counsel for the applicants-claimants supported the award passed by the Reference Court and submits that the appeal filed is devoid of merit. Land acquired was seasonally irrigated land. The S.L.A.O. has granted compensation @

Rs.60,000/- per hector by treating it as dry crop land. On the basis of the evidence adduced, the land acquired being seasonally irrigated land, the compensation has been enhanced by the learned Reference Court.

5. On due consideration of submissions advanced and challenge raised in the appeal, I am of the view, the applicants deserve to be permitted to withdraw the amount to the extent of 60% of the amount deposited. Hence the following order :-

ORDER

(i) The applicants are permitted to withdraw the amount to the extent of 60% of amount deposited by the appellant-acquiring body on furnishing the written undertaking to the effect that in the event award is set aside or modified, the applicants shall refund the amount within eight weeks from the date of passing of order.

(ii) The amount be paid to the applicants directly through transfer in their respective Saving Bank Accounts as per particulars of account to be furnished by them.

(iii) No amount to be paid to the person other than the actual claimants including the Power of Attorney holder or third party.

(iv) The Civil Application is disposed of in above terms.

[V.L. ACHLIYA]
JUDGE

SGA