

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CIVIL APPLICATION NO. 90 OF 2020
IN CA/7291/2019
IN FA/1909/2019

1. Shivappa s/o Nagappa Lade (Died)
Through Legal Representative
 - 1/1 Sanjay s/o shivappa Lade,
Age 40 years, Occup.Agri.,
 - 1/2 Shrishailya s/o Shivappa Lade,
Age 27 years, Occup.Agri.,
 - 1/3 Suvarna w/o Vijaykumar Lade,
Age 38 years, Occup.Agri.,
 - 1/4 Sukeshta d/o Shivappa Lade,
Age 36 years, Occup.Agri.,
 - 1/5 Kashibai w/o Sanjay Chendke,
Age 34 years, Occup.Agri.,

Applicants/Original Claimants No.1/3
to 1/5 given Registered Relinquishment
deed in favour of Applicants/Claimants
No.1/1 and 1/2.

2. Sidram s/o Nagappa Lade,
Age 75 years, Occup. Nil,

All R/o Murum Taluka Omerga
District Osmanabad.

...Applicants.
(Original claimant/Respondent
in First Appeal)

VERSUS

1. The State of Maharashtra,
Through the Collector, Osmanabad.

2. The Special land Acquisition Officer,
(P.T. & L.M.I. Osmanabad).
3. The Executive Engineer,
Minor Irrigation Strengthens Division,
Omerga District Osmanabad.

**...Respondents
(Original Respondents)**

.....
Advocate for Applicants : Mr. G. K. Sontakke.
AGP Respondent No.1/State : Mr. A. A. Jagatkar.
Advocate for Respondents No.2 and 3:Mr. A. M. Gaikwad
.....

CORAM : SMT.VIBHA KANKANWADI, J.

**Date of Reserving The Order :
21-02-2020.**

**Date of Pronouncing The Order :
08-05-2020.**

ORDER :

1. Present application has been filed on behalf of the original claimants for review / modification in the order passed by this Court.
2. The present respondents have filed First Appeal No.1909 of 2019 challenging the Judgment and award in land acquisition proceedings i.e. Land Acquisition Reference No.122 of 2011, decided by learned Joint Civil Judge, Senior Division, Omerga on 02-08-2014. The appeal is admitted and it is pending before this Court for its turn for final hearing. They have also filed an application for stay

to the execution of the award and a conditional order was passed by this Court. The appellant therein were directed to deposit the entire decretal amount awarded by the Reference Court along with interest accrued within six weeks from the date of the order i.e. 22-06-2018. After the amount was deposited by the appellants therein, the present applicants had filed Application No.7291 of 2019 for withdrawal of the amount. After hearing the parties, this Court passed following order : -

“Applicants / Claimants are permitted to withdraw 50% amount of compensation. It be distributed between them equally subject to filing an undertaking.”

3. The applicants have come with a case that, the applicants No.1/3 to 1/5 have relinquished their rights from the land which was acquired and it was registered relinquishment deed which was executed in favour of applicants No.1/1 and 1/2. In view of the fact that they have relinquished their right, the applicants are seeking modification to the order dated 06-09-2019. It is stated that, the amount which goes to the share of applicants No.1/3 to 1/5 should be equally distributed amongst applicants No.1/1 and 1/2.

4. Heard learned Advocate Mr. G. K. Sontakke for applicants, learned Additional Government Pleader Mr. A. A. Jagatkar for

respondent No.1-State, and learned Advocate Mr. A. M. Gaikwad for respondents No.2 and 3. In order to cut short it is stated that, all the learned advocates have made submissions in support of their respective contentions.

5. Perusal of the record would show that, the land which was acquired under Section 4 of the Land Acquisition Act was owned by the predecessor of the present applicants. It also appears that, their predecessor had initially filed the said reference, however after his death the present applicants were brought on record before the Judgment was pronounced by the Trial Court on 02-08-2014. The present applicants No.1/3 to 1/5 were the party claimants before the Trial Court. Perusal of the photocopy of relinquishment deed, which is registered one, would show that it was executed on 19-11-2013. That means, when the matter was pending before the Trial Court, the said document appears to have been executed but then it was not produced before the Trial Court. There is absolutely no explanation by the applicants to this effect. Under such circumstance when the award is in favour of all the applicants, and the compensation amount is received in that matter, further when no explanation is given as to why that document was not produced

before the Trial Court, there is no scope for any modification of the order passed by this Court on 06-09-2019. It appears that, with some ulterior motive the present application has been filed, there is absolutely no merit in the application, any change cannot be made at this interim stage. Hence, the application stands rejected.

(SMT. VIBHA KANKANWADI)
JUDGE

vjg/-