

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

CIVIL APPLICATION NO.15246 OF 2019 IN FAST/8966/2017

CHANDRAKANT MANIK KASAB
VERSUS
THE STATE OF MAHARASHTRA AND ANR

...
Advocate for Applicants-original claimants : Mr. Abhijit S. More
AGP for Respondent No.1 : Mr. S. P. Deshmukh
Advocate for Respondent No.2 : Mr. Shirish G. Sangle / Mr. Rahul A. Tambe

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WITH CA/15248/2019 IN FAST/8975/2017 WITH CA/15249/2019 IN FAST/8946/2017
WITH CA/15250/2019 IN FAST/8988/2017 WITH CA/15252/2019 IN FAST/8992/2017
WITH CA/15253/2019 IN FAST/8978/2017 WITH CA/15256/2019 IN FAST/8960/2017
WITH CA/15257/2019 IN FAST/8953/2017 WITH CA/15258/2019 IN FAST/8938/2017
WITH CA/15260/2019 IN FAST/8995/2017 WITH CA/15261/2019 IN FAST/8931/2017
WITH CA/15262/2019 IN FAST/8942/2017 WITH CA/15263/2019 IN FAST/8721/2017
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CORAM : K.K. SONAWANE, J.

DATED : 04th FEBRUARY, 2020.

ORDER :-

Mr. S. G. Sangle, learned counsel was appeared on behalf of respondent-Acquiring Body. But, now, his name is not appeared in the list of Panel of Advocates constituted on behalf of appellant-Acquiring Body. Therefore, the appearance of learned counsel Mr. S. G. Sangle, stands discharged. Mr. Tambe, learned counsel on instructions submits that he has instructions to appear on behalf of appellant-Acquiring Body in the proceedings.

2. Heard learned counsel for the applicants-original claimants and Mr. Tambe, learned counsel appearing for the respondent No.2 – Acquiring Body as well as learned AGP for respondent No.1 State of Maharashtra. Perused the applications and other relevant documents produced on record.

3. It is contended that, the applicants-original claimants filed reference petitions for enhancement of compensation under Section 18 of the Land Acquisition Act, 1894. The learned Reference Court partly allowed the reference petitions and granted enhancement of compensation alongwith other statutory benefits as per Law. Being dissatisfied with the impugned Judgment and Award, appellant-Acquiring Body filed proceedings of First Appeals to redress its grievance. Pending the appeals, appellant-Acquiring Body deposited the decretal amount in this Court. The applicants-original claimants moved present applications seeking permission to withdraw decretal amount of compensation.

4. Mr. Tambe, learned counsel appearing for respondent No.2 – Acquiring Body raised objections and submits that the Reference Court granted exorbitant compensation amount for the acquired lands. There is hope of success in appeals. In case, entire amount is allowed to be withdrawn by applicants-claimants, it would injustice and prejudice to appellant-Acquiring Body and it would create complication in execution of the Award in the event that appellant succeeds in the appeals. Therefore, learned counsel for Acquiring Body submits that not to nod in favour of applicants-claimants.

5. Admittedly, the matters pertain to determination of compensation of lands under acquisition of original claimants. It has been alleged that the learned Reference Court has appreciated the circumstances and granted exorbitant amount of compensation. The learned Reference Court after appreciation of evidence on record passed the impugned Judgment and Award. In such circumstances, I

do not find any impediment to allow the applicants-claimants to withdraw some of the portion of compensation amount deposited in this Court. Definitely, it would sub-serve the purpose in the interest of justice. Therefore, the Civil Applications deserve to be allowed.

6. Accordingly, the Civil Applications stand partly allowed. The applicants-original claimants are hereby permitted to withdraw 50% of the decretal amount deposited on behalf of appellant-Acquiring Body in the present proceedings of First Appeals on furnishing undertaking to the effect that in case adverse situation, if any, arises after adjudication of appeals on merit in favour of appellant, the applicants-claimants would refund the amount so withdrawn forthwith, as per order of this Court in the present proceedings. The applicants-claimants are further permitted to withdraw 25% amount from rest of the balance decretal amount of compensation on furnishing solvent surety of like amount to the satisfaction of the Registrar (Judicial) of this Court. Rest of the balance 25% amount be invested in Fixed Deposit Receipts account, in any Nationalized Bank for a period of two years or till adjudication of First Appeals, whichever is earlier. The Registrar (Judicial) to do the needful for disbursement of the amount to the applicants-claimants as directed above.

7. The Civil Applications stand disposed of in above terms.

Sd./-

[K. K. SONAWANE]
JUDGE