

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

954 CIVIL APPLICATION NO.195 OF 2020
IN FA/2800/2017 WITH CA/196/2020 IN FA/2799/2017

HARISHCHANDRA SHEKU DEOKATE DEAD THR LRS MATHURABAI
AND ORS
VERSUS

THE EXECUTIVE ENGINEER, MINOR IRRIGATION DIVISION,
OSMANABAD AND ANR

...

Advocate for Applicants : Mr. Santosh N. Patne
Adv for Respondent Nos. 1 and 2: Mr. Jeevan P. Patil
h/f. Mr. G.B. Rajale,

CORAM : K.K. SONAWANE, J.

DATE : 14TH JANUARY, 2020.

PER COURT:

1] Heard learned counsel for the applicants, learned AGP for State and learned counsel for the respondent Acquiring Body. Perused the application and other relevant documents produced on record.

2] The applicants have moved this application seeking withdrawal of the decretal amount deposited in this court on behalf of the Acquiring Body pursuant to the judgment and award passed by the learned Reference Court under Section 18 of the Land Acquisition Act. The learned counsel for the applicant submits that the applicants preferred reference petition under Section 18 of the Land Acquisition Act for enhancement of compensation amount for their acquired land. The learned Reference Court, appreciated evidence on record and partly allowed the reference petition under the impugned

judgment and award. Dis-satisfied with the amount awarded, the respondent Acquiring Body filed First appeal to redress its grievances. During pendency of the appeal, the acquiring body has deposited the decretal amount as directed by this court. Therefore, the applicants have moved the present application seeking permission to withdraw the compensation amount deposited by the Acquiring body in this court.

3] The learned counsel for the respondent raised the objection and submits that the interest amount awarded by the Reference Court is erroneous and illegal and interest is required to be calculated from the date of award and not from the date of notification under Section 4 of the Land Acquisition Act. The learned Reference Court also determined the market value in exorbitant manner and, therefore, the applicant may not be permitted to withdraw the entire decretal amount deposited by the Acquiring Body in this court. He fairly conceded to allow the applicant for withdrawal of 50% of the decretal amount deposited by the acquiring body in this court. The learned counsel for the applicants agreed to withdraw 50% compensation amount deposited by the acquiring body in this court.

4] Having given anxious consideration to the arguments advanced on behalf of both sides, I do not find any impediment to allow the applicants to withdraw 50% of the compensation amount deposited by the acquiring body in this court subject to condition that the applicants shall furnish an undertaking to the satisfaction of the Registrar (Judicial) of this Court, to the effect that in case adverse situation arises after

adjudication of the appeal on merit, in favour of appellant acquiring body, the applicants will refund the amount forthwith as per the directions of this Court. Rest of the 50% amount deposited on behalf of acquiring body be invested in any nationalized bank for a period of two years, to be renewed if required, till adjudication of appeal on merit, whichever is earlier. Registry to do the needful for disbursement of amount as referred supra, in favour of the applicants, as per rules. Civil Applications for withdrawal of amount stand disposed of accordingly.

[K.K. SONAWANE]
JUDGE.

Grt/-.