

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

13 CIVIL APPLICATION NO. 2122 OF 2020 IN FA/2065/2019

SANDIPAN DATTU ZANJE
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

WITH
CIVIL APPLICATION NO. 2125 OF 2020 IN FA/2062/2019

KANTABAI MADHUKAR SIRSAT
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

WITH
CIVIL APPLICATION NO. 2124 OF 2020 IN FA/2064/2019

LIMBA MAHADEO DANE
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

WITH
CIVIL APPLICATION NO. 2127 OF 2020 IN FA/2063/2019
BAJIRAO SADHU SALUNKE THR.LRS. SHAKUNTALA AND OTHERS
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

WITH
CIVIL APPLICATION NO. 2120 OF 2020 IN FA/2061/2019
VITTHAL UDDHAV PARIT (SARPALE) THR.LRS. AND OTHERS
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

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Advocate for the Applicants : Shri K. B. Jadhav
AGP for the Respondents-State : Shri P. M. Kulkarni

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CORAM : N. J. JAMADAR, J.

DATE : 08th MARCH, 2021

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ORAL ORDER :

These applications are preferred for permission to withdraw the amount of compensation deposited by the respondent – appellant in terms of the judgment and award dated 09/03/2015 passed by the Reference Court in LAR No.270/2013 and other connected matters.

2. The applicants aver that the applicants are in acute need of the amount deposited by the respondent. The applicants have been deprived for their source of livelihood.

3. The learned AGP resisted the prayer for the withdrawal.

4. The Land Acquisition Officer had awarded the compensation at the rate of Rs. 750/- per Are. The claimants had demanded the compensation at the rate of Rs. 5,000/- per Are. By the impugned judgment and award, the Reference Court was persuaded to award the compensation at the rate of Rs. 12,000/- per Are.

5. Having regard to the multi-fold enhancement in the rate at which the compensation has been awarded, the learned AGP would urge that the prayer for withdrawal of amount be rejected.

6. The learned counsel for the applicants has invited the attention

of the court to an order dated 07/12/2020 passed by this Court in Civil Application No. 10928/2019 in First Appeal No. 5039/2017 and the connected matters, wherein after adverting to an earlier order dated 08/01/2018 passed by this Court in Civil Application No. 14504/2017 in First Appeal No. 344/2017, this Court permitted the applicants therein to withdraw the amount to the extent of 50% of the compensation deposited by the respondent-appellant subject to usual undertaking.

7. The learned counsel for the applicants submitted that the said order came to be passed in the proceedings which arose out of the land acquired for the same project but by a subsequent notification. The learned AGP contests this position.

8. Nevertheless, the fact remains that there is a multi-fold enhancement in the rate at which the compensation has been awarded. The applicants, however, cannot be totally deprived of the benefit of compensation as they have lost the source of livelihood. It would, therefore, be expedient in the interest of justice to allow the applicants to withdraw 50 % of the amount of compensation deposited by the respondent-appellant subject to certain conditions. Hence the following order :-

ORDER

1. The applications stand partly allowed.
2. The applicants are permitted to withdraw 50 % of the amount of compensation deposited by the respondent-appellant on furnishing an undertaking to the satisfaction of the learned Registrar (Judicial) of this Court.
3. The balance amount be invested in a Nationalised bank.
4. The applications stand disposed of.

(N. J. JAMADAR, J.)

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