

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CIVIL APPLICATION NO.2692 OF 2021
IN FA/336/2020 WITH CA/2689/2021 IN FA/341/2020 WITH
CA/2690/2021 IN FA/337/2020 WITH CA/2691/2021 IN FA/339/2020
WITH CA/2693/2021 IN FA/338/2020

Saraswatibai Balwantrao Deshmukh ..Applicant

Versus

The State of Maharashtra through
Collector, Latur and anr. ..Respondents

Mr Vijay Patil, Advocate h/f Mr M.S. Patil, Advocate for applicants
Mr G.O. Wattamwar, A.G.P. for respondent no.1 - State
Mr S.C. Arora, Advocate for respondent no.2

CORAM : SHRIKANT D. KULKARNI, J.

DATE : 1st JULY, 2021

PER COURT :

1. Read applications for withdrawal of amount moved by the applicants/original claimants. Perused the copy of judgment and award passed in L.A.R.No. 05/2012 by the reference Court dated 18th September 2017.

2. Mr Patil, learned Counsel for the applicants submits that the compensation awarded by the reference Court is within the range of four times as per the Government policy and in view of the notification issued by the State Government when the compensation awarded by the reference Court is within the four times, then the State would not file the appeals. He submits that the applicants are entitled to withdraw 100% of the amount deposited by the acquiring body.

4. Mr Patil further places his reliance on the order of withdrawal passed by the Division Bench of this Court in Civil Application no. 14623 of

2019 in First Appeal no. 3229 of 2019 and submits that applicants are entitled to withdraw 100% of the amount on furnishing usual undertaking as per the procedure.

5. On the other hand, Mr Arora, learned Counsel appearing for the acquiring body strongly opposed to allow these applications for withdrawal. He submits that the compensation awarded by the reference Court is not within four times, but it is much above. He points out that S.L.A.O. has awarded compensation to the acquired land at the rate of Rs.2,730/- per R and reference Court has awarded compensation at the rate of Rs.13,610/- per R. It is not a case of awarding compensation within four times as per the notification issued by the State Government. The reference Court has awarded exorbitant compensation without considering factual scenario. He further submits that the reference Court has awarded interest at the rate of 15% per annum under Section 28 of the Land Acquisition Act which is against the decision of the Full Bench of this Court.

6. Mr Arora, learned Counsel for the acquiring body further invited my attention to the impugned judgment and award, more particularly, para numbers 40 and 42. He submits that the reference Court has awarded compensation in respect of three orchards double than it was awarded by S.L.A.O. simply on the basis of its own opinion without having sort of decision or without any foundation of evidence. By taking help of abovesaid material, he submits that the applicants may not be permitted to withdraw the amount.

7. I have considered the submissions of learned Counsel for both

the sides. Perused the order passed by the Division Bench of this Court in Civil Application no. 14623 of 2019. The said order is not arising out of the same notification regarding acquisition of lands. It is stated to be of different village, but close to the village involved in the appeals. Be that as it may, it would not be just and proper to touch merits of the matter at this juncture while passing order of withdrawal of amount.

8. Number of arguable points are raised by Mr Arora, learned Counsel for acquiring body. Those will be dealt with at the time of final hearing of the appeals. It would not be just and proper to reject the prayer of the withdrawal of amount of compensation made by the applicants. I have considered the submissions of both the sides and in view of the rate of compensation awarded by the reference Court coupled with other factors, I am convinced to allow the applicants to withdraw 75% amount of the compensation deposited by the acquiring body as per the procedure and on usual undertaking which is practice adopted by this Court. With this, I conclude and proceed to pass the following order:

ORDER

(i) The applicants are permitted to withdraw 50% of the amount of compensation deposited by the acquiring body with the Registry on furnishing usual undertaking.

(ii) The applicants are further permitted to withdraw 25% of the amount of compensation deposited by the acquiring body with the Registry on furnishing solvent surety/security of the like amount to the satisfaction of Registrar (Judicial) of this Court.

- (iii) Civil Applications are allowed and disposed of accordingly.

[SHRIKANT D. KULKARNI, J.]

mta