

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

**FIRST APPEAL NO. 923 OF 2020
WITH
CIVIL APPLICATION NO.3623 OF 2021**

Super Agricultural Produce Market
Committee, Jadhavwadi, Aurangabad
Through its Secretary,
Vijay Ashruba Sirsat ... Appellant

Versus

Pandit Khemchand Harane and another ... Respondents

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Mr. S. S. Thombre, Advocate for the appellant
Mr. S. B. Solanke, Advocate for respondent No.1
Mr. S. S. Dande, AGP for respondent No.2 - State

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CORAM : R. G. AVACHAT, J.

DATED : 09th JULY, 2021

PER COURT :-

. The challenge in this appeal is to the judgment and award dated 18.01.2019, passed by the 3rd Joint Civil Judge, Senior Division, Aurangabad in L.A.R. No.131 of 1997.

2. Heard. Perused the impugned award and the related documents.

3. Shri S. S. Thombre, learned Advocate for the appellant would submit that the impugned award has been passed *ex parte*. The Land Acquisition Officer had awarded the compensation amount of Rs.32,000/- per *Hectare*. The Reference Court enhanced it to Rs.1,00,000/- per *Acre*. The increase is manifold. It is a public money. He, therefore, urged for setting aside of the impugned order with remand of the matter to the Reference Court to decide it afresh after giving an opportunity of hearing to the parties to the Reference.

4. Shri S. B. Solanke, learned Advocate for respondent No.1 – Claimant would submit that the land has been acquired way back in 1987. For over years, the claimant has been deprived of compensation for acquisition of the land. The appellant slept over its right. He, therefore, urged for dismissal of the appeal.

5. The respondent No.1 – Claimant has also preferred the application seeking withdrawal of the amount of compensation deposited in this Court. According to him, only 60% of the amount under the award has been deposited in this Court.

6. Shri S. S. Thombre, learned Advocate for the appellant, would on the other hand, objected for withdrawal of the amount of

compensation. According to him, the appellant has a very good case to succeed in the L.A.R.

7. It is true that the Land Acquisition Officer had awarded the compensation of Rs.32,000/- per *Hectare*. The Reference Court has enhanced it to Rs.1,00,000/- per *Acre*.

8. The award has been passed *ex parte*. It is, therefore, desirable to set aside the impugned award and remand the matter back to the Reference Court to decide it afresh within a time frame.

9. So far as regards application for withdrawal of the amount of compensation is concerned, I am inclined to permit the claimant (applicant) to withdraw 50% of the entire amount under the award. In view of the above, I pass the following order:-

ORDER

- (i) The impugned award is set aside.
- (ii) The matter is remanded back to the Reference Court to decide it afresh, after affording an opportunity of hearing to the parties concerned, within a period of three months from the date of receipt of the copy of this order.

- (iii) Civil Application No.3623 of 2021 is partly allowed. The claimant is permitted to withdraw 50% amount under the award, on furnishing solvent security to the satisfaction of the Registrar (Judicial) of this Court. Balance amount be invested in fixed deposit in any nationalised bank till disposal of the Reference.
- (iv) In case, the Reference Court dismisses the Reference or enhances the compensation to a quantum lesser than the amount to be withdrawn, then the applicant/claimant shall repay the requisite amount.
- (v) The Reference Court shall decide the Reference uninfluenced by order granting withdrawal of the amount.
- (vi) Pending civil application No.3588 of 2021 is disposed of.

[R. G. AVACHAT, J.]

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