

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

CIVIL APPLICATION NO.4265 OF 2021 IN
FIRST APPEAL (ST.) NO.38208 OF 2017

Vithoba Maruti Murme,
Died through L.Rs.
Suman Vitthal Murme & ors.

... **APPLICANTS**

VERSUS

The State of Maharashtra & ors.

... **RESPONDENTS**

.....
Shri A.B. Kale, Advocate for applicants
Shri B.V. Virdhe, A.G.P. for State.

.....

CORAM : R. G. AVACHAT, J.

DATE : 11th JUNE, 2021

ORDER :

The applicants hereby seek withdrawal of the amount of compensation deposited in this Court by the respondents pursuant to the order dated 8/6/2018.

2. Heard Mr. Kale, learned counsel for the applicants and learned A.G.P. Perused the application and the impugned award.

3. The land of the applicants has been compulsorily acquired long back. Being aggrieved and dissatisfied with the grant of compensation awarded by the Land Acquisition

Officer, a reference was made (No.485/2014). The same has been allowed vide judgment and award dated 26/3/2015, enhancing the compensation @ Rs.750/- per R. (including one granted by the Special Land Acquisition Officer. It has been stated that, reference made by some other claimants have been allowed, granting enhancement of compensation. The acquiring body has not preferred appeal thereagainst. Those claimants filed execution proceedings and have withdrawn the amount of compensation.

4. The reference was filed by four siblings namely Suman, Balaji, Netaji and Sambhaji Murme, being legal representatives of the original owner late Vithoba. It appears that, Balaji died pending reference. His legal representatives were not brought on record. This Court, vide order dated 23/1/2020, observed :-

“It appears that original claimant No.2 namely Balaji Vitthal Murme had preferred LAR No.485 of 2014 against the Acquiring Body. But, pending the Reference Petition, he passed away on 27/7/2008. His legal heirs were not brought on record in the Reference Petition, hence proceeding stands abated against the said claimant No.2 after efflux of stipulated period. Therefore, the applicants i.e. legal heirs of claimant No.2 Balaji Vitthal Murme, have no way concerned at all with the present proceeding as their names were not recorded on behalf of the appellant – Acquiring Body by adopting the legal

procedure. In such circumstances, both the civil applications filed by the legal heirs of original claimant No.2 Balaji Vitthal Murme, being inapt and premature, stand dismissed.”

5. The legal representatives of late Balaji Murme are at liberty to take appropriate steps to come on record in the First Appeal (Stamp No.38208/2017) and the related Civil Applications. The claim for withdrawal of the amount by legal representatives of late Balaji Murme would, therefore, be considered after they are brought on record.

6. Since the acquiring body did not prefer any appeal in the connected matters, and the claimants therein have withdrawn the amount in execution proceedings, I am inclined to allow the present Civil Application in terms of the following order :

ORDER

The applicants No.1, 3 and 4 be paid 50% of the amount deposited in the Court on condition of furnishing an undertaking and solvent surety to the satisfaction of the Registrar of this Court.

**(R. G. AVACHAT)
JUDGE**

fmp/-