

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

CIVIL APPLICATION NO.3577 OF 2021 IN
FIRST APPEAL NO.213 OF 2020

Ramkrishan Babarao Gavali

... APPLICANT

VERSUS

The Godavari Marathwada Irrigation
Development Corporation & ors.

... RESPONDENTS

.....
Mr. R.K. Shingnapure, Advocate for applicant
Mr. A.M. Gaikwad, Advocate for respondent No.1.
Mr. A.M. Phule, A.G.P. for respondents No.2 and 3
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CORAM : R. G. AVACHAT, J.

DATE : 27th JULY, 2021

PER COURT :

The applicant has moved this application seeking withdrawal of the amount deposited by appellant – acquiring body.

2. Learned counsel for the appellant – acquiring body opposed the application with contention that the enhancement of compensation is excessive and unsustainable in law. It is submitted that the compensation assessed @ Rs.220/- per R by the Special Land Acquisition Officer has been enhanced to

Rs.2437/- per R. The enhancement is more than ten times the compensation assessed by the Special Land Acquisition Officer. It is further submitted that, the enhancement has been made on the basis of award passed by the Reference Court in L.A.R. No.398 of 2014, 399 of 2014 and 784 of 2013 decided on 23/2/2015, which is under challenge before this Court in first Appeal No.2848 of 2017 and the appeal has been admitted. It is submitted that, the appellant has good case to succeed in the appeal. In case, the applicant is permitted to withdraw the amount deposited, then it will be difficult to recover the amount if the award is set aside or modified.

3. On the other hand, learned counsel for the applicant/ claimant submits that, the appeal filed is devoid of merit. The enhancement is based upon the evidence adduced in the case. The Reference Court has relied upon the sale instance of similarly situated land while determining the compensation. It is submitted that, the award passed in L.A.R. No.398 of 2014 has been challenged before this Court in First appeal No.2848 of 2017. While deciding Civil Application no.12824 of 2017 filed in the said appeal, seeking withdrawal of amount, this Court has permitted the applicants to withdraw the amount to the extent of 50% of

compensation without furnishing security and 25% of amount on furnishing solvent security to the satisfaction of the Registrar (judicial) of this Court.

4. On due consideration of the submissions advanced and order dated 10/10/2017 in Civil Application no.12824 of 2017, I am of the view that the applicant be permitted to withdraw the amount to the extent of 70% of the amount deposited on furnishing undertaking. Hence the order :-

ORDER

(i) The application is partly allowed.

(ii) The applicant is permitted to withdraw 70% of the amount deposited on furnishing undertaking to the satisfaction of the Registrar (judicial) of this Court. The balance amount be invested in fixed deposit in any of the Nationalised Banks till disposal of the appeal.

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

fmp/-