

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CIVIL APPLICATION NO.1080 OF 2021
IN
FIRST APPEAL NO.1222 OF 2018

Jijabai W/o Narayan Dahiphale (Died)
Through Legal Representative
1. Vanmalabai W/o Venkatrao Lahane
and others. .. APPLICANTS

VERSUS

The State of Maharashtra
and anr. .. RESPONDENTS

WITH
CIVIL APPLICATION NO.1078 OF 2021
IN
FIRST APPEAL NO.1219 OF 2018

Shivkantabai W/o Baburao Shelke .. APPLICANT

VERSUS

The State of Maharashtra
and anr. .. RESPONDENTS

WITH
CIVIL APPLICATION NO.1081 OF 2021
IN
FIRST APPEAL NO.1220 OF 2018

Govind S/o Mahada Mamadge (died)
Through Legal Representative
Kesharbai Govind Mamadge .. APPLICANT

VERSUS

The State of Maharashtra
and anr. .. RESPONDENTS

Mr.G.K. Sontakke, Advocate for the applicants.

Mr.A.A. Jagatkar, AGP for the respondent – State.

Mr.S.G. Sangle, Advocate for respondent – acquiring body.

...
CORAM : V.L.ACHLIYA,J.
DATE : 21.01.2021

ORAL ORDER :

The applicants-claimants have moved these applications seeking withdrawal of amount deposited by the appellant-acquiring body in the respective appeals.

2. In brief, it is the contention of learned counsel for the appellant – acquiring body that the appellant has good case to succeed in appeals. The enhancement of compensation is excessive and not sustainable in law. The compensation assessed by the Special Land Acquisition Officer in the range of Rs.434/- to Rs.540/- per R has been enhanced by the Reference Court to Rs.1,00,000/- per acre for jirayat land and Rs.2,00,000/- per acre for bagayat land. It is further submitted that the interest has been awarded from the date of notification which is contrary to the Full Bench decision of this Court in the case of ***State of Maharashtra Vs. Kailash Shiva Rangari***

reported in *2016(3) Mh.L.J. 457*. However, learned counsel fairly submits that while depositing the amount, the acquiring body has deposited the amount by keeping in mind the interest payable in terms of the decision in the case of *State of Maharashtra Vs. Kailash Shiva Rangari (supra)*.

3. On the other hand, learned counsel for the applicants-claimants submits that appeals filed are devoid of merit. The determination of compensation is based upon the evidence adduced in the case. There is no perversity in the judgment and order passed by the trial Court. It is further submitted that in group of appeals arising out of the same award, this Court (Coram : M.G. Sewlikar,J) vide order dated 27th October, 2020 allowed the withdrawal of entire amount deposited. The applicants therein are permitted to withdraw the amount to the extent of 50% on furnishing undertaking and the balance amount on furnishing bank guarantee. Learned counsel therefore urged to pass the order on the same line.

4. On due consideration of submission advanced, I am of the view, the applicants be

permitted to withdraw the amount to the extent of 70% of the amount deposited on furnishing undertaking. It is not desirable to put onerous condition of withdrawal of amount on furnishing bank guarantee in cases arising out of the land acquisition cases as it is very difficult for the claimant-agriculturists to arrange for the bank guarantee. I am therefore of view, instead of allowing the withdrawal of amount to the extent of 100% of amount deposited in terms of the order dated 27.10.2020 passed in connected appeal, the permission be granted to withdraw the amount to the extent of 70% of the amount deposited on furnishing undertaking to the effect that in the event the award is set aside or modified, the applicants shall redeposit the same within eight weeks from the date of passing of order. Hence the following order :-

ORDER

(i) The applications filed in respective appeals are partly allowed.

(ii) The applicants in respective applications are permitted to withdraw the amount to the extent of 70% of the amount deposited in respective appeals on furnishing

undertaking to the effect that in the event the award is set aside or modified, they shall redeposit the same within eight weeks from the date of passing of such order.

(iii) The amount be paid to the applicants by transferring the same in their respective Savings Bank Accounts on furnishing particulars of their respective Savings Bank Accounts.

(iv) Payment of withdrawal is subject to outcome of the appeals.

(v) The applications are disposed of in above terms.

[V.L.ACHLIYA]
JUDGE

SGA