

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

924 CIVIL APPLICATION NO.12287 OF 2021
IN FA/51/2020

DILIP SHIVAJI VAYKULE AND ORS
VERSUS
THE EX. ENGINEER, MEDIUM PROJECT DIVISION,
OSMANABAD AND ORS

Advocate for Applicant : Mr M.P. Tripathi h/f Mr Kishor J. Ghute Patil
AGP for Respondent No. 2 and 3-State : Mr A.M. Phule
Advocate for Respondent No. 1 : Mr Jeevan R. Patil h/f Mr G.B. Rajale

CORAM : SHRIKANT D. KULKARNI, J.

DATE : 23rd NOVEMBER, 2021

PER COURT :

1. It is an application for withdrawal of amount moved by the applicant/original claimant.
2. Heard learned counsel Mr M.P. Tripathi holding for Mr Ghute Patil, learned counsel for the applicant, Mr A.M. Phule, learned A.G.P. for respondent Nos. 2 and 3 and Mr Jeevan Patil holding for Mr G.B. Rajale, learned counsel for respondent No.1.
3. Mr Jeevan Patil holding for Mr G.B. Rajale, learned counsel for respondent No.1 strongly opposed to allow this application. He submits that the Reference Court has enhanced the compensation amount @ Rs. 8000/- per R, which is more than 10 times of the market value and the same is under challenge. He further submits that the Reference Court has awarded interest under section 34 of the Land Acquisition Act, which is contrary to the Full Bench decision of this Court.

4. Be that as it may, it is the practice of this Court to allow the original claimants to withdraw the amount on furnishing usual undertaking. In most of the cases, this Court has allowed the original claimants in the first appeal arising out of land acquisition matters to withdraw 75 % of the amount of compensation deposited by the acquiring body/State.

5. By taking the same view, I am of the view to allow the applicant/original claimant to withdraw 75 % of the amount of compensation deposited by the acquiring body in this Court subject to furnishing usual undertaking with the Registrar (Judicial) of this Court.

ORDER

(I) The civil application is hereby allowed.

(II) The applicant is permitted to withdraw 75% amount of compensation out of Rs.12,02,173/- along with accrued interest thereon deposited by the acquiring body on furnishing usual undertaking with the Registrar (Judicial) of this Court.

(III) The remaining amount be invested in Fixed Deposit in any nationalized bank for the period of three years.

(IV) The civil application is accordingly disposed of.

[SHRIKANT D. KULKARNI, J.]

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