

(1)

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

CIVIL APPLICATION NO.12524 OF 2021
IN FA/311/2015

SUDHAKAR SHANKAR BIRAJDAR (DIED) THR LRS. SWATI
SUDHAKAR BIRAJDAR
VERSUS
THE STATE OF MAHARASHTRA, THROUGH COLLECTOR,
OSMANABAD AND ANOTHER

AND

CIVIL APPLICATION NO.12532 OF 2021
IN FA/2091/2014

MANIK RAMA BODKE DEAD HIS LRS HIRKANABAI AND OTHERS
VERSUS
THE STATE OF MAHARASHTRA, THROUGH COLLECTOR,
OSMANABAD AND ANOTHER

AND

CIVIL APPLICATION NO.12655 OF 2021
IN FA/291/2015 WITH CA/2502/2017 IN FA/291/2015

SHIVAJI MAHADU SONTAKKE (DECEASED) THR LRS. KANTABAI
SHIVAJI SONTAKKE AND OTHERS
VERSUS
THE STATE OF MAHARASHTRA, THROUGH COLLECTOR,
OSMANABAD AND ANOTHER

AND

CIVIL APPLICATION NO.12657 OF 2021
IN FA/340/2015

DASRAO MARTANDRAO INAMDAR (DECEASED) THR LRS. VILAS
DASRAO INAMADAR AND ANOTHER
VERSUS
THE STATE OF MAHARASHTRA, THROUGH COLLECTOR,
OSMANABAD AND ANOTHER

AND

CIVIL APPLICATION NO.12659 OF 2021
IN FA/306/2015

VENKAT NAGORAO GAIKWAD

(2)

VERSUS
THE STATE OF MAHARASHTRA, THROUGH COLLECTOR,
OSMANABAD AND ANOTHER

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Mr. N.B. Khandare, Advocate for applicants;
Mr. S.G. Sangle and Mr. S.R. Yadav, A.G.Ps. for respondent-State;
Mr. S.S. Dande, Advocate for respondent no.2

**CORAM : RAVINDRA V. GHUGE
AND
S. G. MEHARE, J.**

DATE : 26th November 2021

ORAL ORDER :

1. In all these civil applications, the learned Advocates for the applicants pray for withdrawal of compensation amount. This Court had passed an order in the first appeals directing the appellants to deposit the entire amounts awarded by the Reference Courts. However, by order dated 27/03/2015, in a group of civil applications, this Court permitted withdrawal of only 50% of the amounts. A group of applicants approached the Hon'ble Apex Court in Manik Rama Bodke, deceased through LR's and others Vs. State of Maharashtra and another in Civil Appeal Nos.523/2017. The Hon'ble Apex Court disposed off the appeals by order dated 02/01/2017 directing that 50% of the enhanced compensation granted to the claimants shall be released without security and the balance amount of 50% shall be released on furnishing security to the satisfaction of the Collector.

(3)

2. The applicants have already withdrawn 25% of the amount deposited by tendering an affidavit undertaking and the remaining 25% by tendering the solvent security to the satisfaction of the District Collector.

3. Now that the entire amount is before this Court, out of which 50% has been withdrawn, these applicants pray for the remainder amount along with the accrued interest on the same principle.

4. Mr. Dande, the learned Advocate has vehemently opposed these applications and submits that astronomical enhancement has been granted by the Reference Court. By way of an example, he states that the Special Land Acquisition Officer had granted compensation @ Rs.250 Per R in some cases. The Reference Court enhanced the compensation to Rs.10,000/- per R and Rs.12,000/- per R. Such enhancements are unsustainable in law. The appellants have a very strong case on merits and if they succeed against the impugned awards of the Reference Court, it would be very difficult to recover the amounts from these applicants.

5. We do appreciate the contentions of Mr. Dande. When this Court had directed the appellants to deposit the entire amount, the claimants were permitted to withdraw 50% with the above mentioned conditions. Since the Hon'ble Apex Court has permitted these claimants to withdraw the balance 50% amount, we do not find that it would be appropriate for this Court to accept the submissions of the learned Advocate Shri Dande.

(4)

6. In view of the above, these applications are allowed with the following directions :-

[a] Similar to the earlier directions for withdrawal, the applicants would withdraw 50% of the balance amount alongwith interest by tendering an affidavit undertaking stating therein that if these applicants suffer an adverse order in this litigation, they would deposit those amounts which are found to have been received in excess, in this Court within 8 weeks, failing which, this Court would impose interest.

[b] The remaining amount can be withdrawn by these applicants by furnishing security to the satisfaction of the learned Registrar (Judicial) of this Court, as the amounts are deposited at Aurangabad.

[c] The applicants would tender a copy of their Aadhar Cards duly attested and would be identified by the concerned Advocates at the time of the withdrawal of the amounts. In addition, they would also tender a recent colour photograph along with the application for withdrawal.

(S. G. MEHARE, J.)

(RAVINDRA V. GHUGE, J.)

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