

Uday S. Jagtap

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

**INTERIM APPLICATION NO. 485 OF 2020
IN
FIRST APPEAL (ST.) NO. 9811 OF 2015**

Basgonda Malkappa Biradar
(since deceased by his LRs)

1(a) Jakkavva Basgonda Biradar & Anr. .. Applicants

In the matter between

The Executive Engineer,
Minor Irrigation Division, Sangli,
Dist. Sangli

.. Appellant

Vs.

Basgonda Malkappa Biradar
(since deceased by his LRs)

1(a) Jakkavva Basgonda Biradar & Anr. .. Respondents

.....

Mr. Tejpal S. Ingale for the applicants

Mr. Y.G. Thorat i/b Mr. D.D. Shinde for the appellant

CORAM : PRITHVIRAJ K. CHAVAN, J.

DATED : 10th MARCH, 2021

P.C.

1. Heard Mr. Tejpal Ingale, learned Counsel for the applicants – original claimants. He seeks withdrawal of the amount of compensation deposited by the appellant before the Reference Court on 6th November, 2019.

2. It is submitted that ever since the land has been acquired for a minor irrigation project by the appellant, the claimants have not received any amount. The learned Reference Court, Sangli has partly allowed the reference directing the appellant – acquiring body to pay 95,000/- per Acre, against which the acquiring body has preferred

this appeal.

3. It is brought to my notice that despite a specific direction to the acquiring body to deposit the entire amount of compensation on or before 31st August, 2019, the amount came to be deposited on 6th November, 2019.

4. This Court on 3rd July, 2019 (Coram : K.K. Tated, J.) by a conditional order, directed the appellant to deposit the entire amount before 31st August, 2019 *inter alia* granting liberty to the claimants to prefer appropriate application for withdrawal of the amount.

5. As a matter of fact, the claimants could have filed execution, nevertheless, since they have approached this Court and the reasons stated in paragraph no.4 of the application, the applicants – claimants are permitted to withdraw 50% of the amount of compensation with an undertaking before the Reference Court that in case the acquiring authority succeeds in appeal, they will refund the said amount with interest as would be determined by this Court at the time of disposal of the appeal.

6. After withdrawing 50% of the amount, the learned Judge shall invest the balance amount in a fixed deposit of any Nationalized Bank, initially for a period of 3 years.

7. Application stands disposed of.

(PRITHVIRAJ K. CHAVAN, J.)