

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

931 CIVIL APPLICATION NO.3238 OF 2022
IN FAST/38193/2017

ABDUL KHAYUM AHMED MUNSHI (DIED)
THR LRS MUNSHI ANISAABDUL KHAYUMSAB (DIED)
THR LRS MUNSHI AND ORS

VERSUS

THE EX. ENGINEER, MINOR IRRIGATION
DIVISION OSMANABAD AND ORS

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Advocate for Applicants : Mr Apparao Yenegure
AGP for Respondent No. 2 /State : Mr S.G. Sangle
Advocate for Respondent No.3 : Mr M.S. Kulkarni

CORAM : SHRIKANT D. KULKARNI, J.
DATE : 16th March, 2022

PER COURT :

1. It is an application for withdrawal of compensation amount moved by the applicants/original claimants.
2. Heard Mr Apparao Yenegure, learned counsel for the original claimants, Mr P.M. Kulkarni, learned AGP for respondent/State and Mr M.S. Kulkarni, learned counsel for respondent No.3/acquiring body.
3. Mr Apparao Yenegure, learned counsel for the claimants urged to allow the claimants to withdraw 100% amount of compensation deposited by the acquiring body.
4. Mr M.S. Kulkarni, learned counsel for the applicants/acquiring body submitted that in this case, Special Land Acquisition Officer was pleased to award compensation @ Rs.40,000/- per hectare. However, the Reference Court was pleased to enhance the same @ Rs.3,88,000/- per hectare. According to Mr M.S. Kulkarni, the compensation awarded by the Reference Court is

exorbitant and same has been awarded without considering the factual aspects and evidence on record. He further pointed out that the Reference Court has awarded the interest from the date of possession which is contrary to the full bench decision of this Court in case of ***State of Maharashtra, through Sub Divisionl Officer and Special Land Acquisition Officer, Darwha, District Yavatmal Vs. Kailash Shiva Rangari*** reported in ***2016 (3) Mh.L.J. 457***.

5. Mr P.M. Kulkarni, learned AGP for the State has argued on the same lines.

6. Having considered the submissions of learned counsel for the original claimants, learned counsel for the appellant/acquiring body and learned AGP and having considered the aspects regarding hike in the compensation amount awarded by the Reference Court, it would be appropriate and just to allow the claimants to withdraw 50% of the amount of compensation, out of it, 25% on usual undertaking and 25% on furnishing solvent surety/security which would take care of interest of the appellant involved in the appeal.

ORDER

(A) The application is hereby allowed as under :-

- (i) The applicants/claimants are permitted to withdraw 25% of compensation amount with accrued interest thereon on furnishing usual undertaking with the Registrar (Judicial) of this Court.
- (ii) The applicants/claimants are further permitted to withdraw 25% of compensation amount on furnishing solvent surety/security to the satisfaction of the Registrar (Judicial) of this Court.
- (iii) The Civil Application is accordingly disposed of.

(SHRIKANT D. KULKARNI, J.)

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