

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

CIVIL APPLICATION NO.2960 OF 2022 IN FA/1093/2021

DILIP DEORAO LAWATE (DIED) THR LRS BHAGIRATHIN  
AND OTHERS

VERSUS

THE STATE OF MAHARASHTRA, THROUGH DISTRICT  
COLLECTOR, LATUR AND ANOTHER

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Mr. S.V. Gundre, Advocate for the Applicants

Mr. S.G. Sangle, AGP for Respondent No. 1

Mr. A.D. Soman, Advocate h/f Mr. D.V. Soman, Advocate for  
Respondent No.2

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**CORAM : SHRIKANT D. KULKARNI, J.**

**DATE : 15<sup>th</sup> MARCH, 2022**

**PER COURT:-**

1. Mr. Gundre, learned counsel for the applicants / claimants undertakes to remove the office objection within a week. His statement is taken on record.

2. Heard Mr. Gundre, learned counsel for the applicants / claimants and Mr. A.D. Soman holding for Mr. D.V. Soman, learned counsel for respondent no.2 / acquiring body on the point of withdrawal of compensation amount. Mr. Sangle, learned AGP for Respondent no.1 is present.

3. Mr. Soman, learned counsel for respondent no.2 / acquiring body pointed out that the original claimant no.2 Tukabai Gulabrao Fulade is no more. Her legal heirs need to be brought on record. He, therefore, raises objection to allow this application.

4. Mr. Gundre, learned counsel for the applicants / claimants invited my attention to the impugned judgment passed in L.A.R. No. 284 of 2003 by the reference Court, more particularly para 32. He submits that the share of Tukabai Gulabrao Gulade, who is reported to be dead be kept out and the share of remaining two claimants needs to be paid to the present applicants.

5. I have considered the submissions of both the sides. I have also perused the impugned judgment and award passed in L.A.R. No.284 of 2003, more particularly para 32 referred by Mr. Gundre, learned counsel for the applicants / claimants. On going through the copy of the judgment passed in L.A.R. No.284 of 2003, it is revealed that there are in all three claimants, who have filed the original reference proceedings against the State of Maharashtra and the acquiring body. Claimant No.2 Tukabai Gulabrao Fulade is now reported to be dead. The present application is filed on behalf of legal heirs of original claimant no.1 and original claimant no.3

Nagarbai W/o Narayan Bande, who has been shown in the present application as applicant no.2. They are entitled to get part of their compensation. The share of deceased claimant Tukabai Gulabrao Fulade needs to be retained.

7. At this stage, I am not supposed to touch the merits of appeals. It is the practice followed by this Court to allow the original claimants to withdraw 75% amount of the compensation deposited by the acquiring body, 50% on furnishing usual undertaking and 25% on furnishing solvent surety / security to the satisfaction of the Registrar (Judicial) of this Court. By taking same view, it is necessary to allow these applications. Hence, the following order.

### **ORDER**

(i) The civil applications moved by the respective claimants for withdrawal of amount are hereby allowed.

(ii) The applicants / claimants are hereby permitted to withdraw 75% amount of the compensation with accrued interest thereon deposited by the acquiring body / respondent no.2, 50% of the amount with accrued interest thereon subject to furnishing usual undertaking to the satisfaction of the

Registrar (Judicial) of this Court and 25% of the amount with accrued interest thereon subject to furnishing solvent surety / security to the satisfaction of the Registrar (Judicial) of this Court.

(iii) Remaining 25% of the amount of compensation with accrued interest thereon shall be invested in fixed deposit in any nationalized Bank initially for a period of one year with clause to renewal.

(iv) After completing the above said formalities, the Registry is directed to make payment to the respective claimants as per the procedure.

(iv) The civil applications are disposed of accordingly.

(v) The share in compensation amount pertaining to deceased claimant Tukabai Gulabrao Fulade shall be retained until further orders of this Court.

8. After passing this order, it is pointed out by Mr. Gundre, learned counsel for the applicants / original claimants that the acquiring body has deposited the amount in the reference Court / executing Court and not in this Court. According to Mr. Undre, that amount of compensation has been deposited after the time line fixed by this Court.

9. Mr. Soman, learned counsel for the acquiring body submits that he has no instructions in this regard.

10. Be that as it may, the reference Court / executing Court is directed to make the payment to the applicants / original claimants in the above terms of the order passed by this Court.

**[ SHRIKANT D. KULKARNI ]**  
**JUDGE**

S.P. Rane