

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

44 CIVIL APPLICATION NO.2099 OF 2022
IN FAST/13674/2020

NAGORAO YASHWANTA SURASE

VERSUS

THE EXECUTIVE ENGG., MINOR IRRIGATION DIV.,
NO.1, MIDC, AURANGABAD AND ANR

...

Advocate for Applicant :Mr S.N. Pahune Patil h/f Mr N.J. Pahune Patil
AGP for Respondent/State : Mr S.G. Sangle
Advocate for Respondent No.1 : Mr S.C. Arora

WITH

CIVIL APPLICATION NO.2097 OF 2022
IN FAST/13668/2020

KALABAI DATTU RAHANE

VERSUS

THE EXECUTIVE ENGG., MINOR IRRIGATION DIV.,
NO.1, MIDC, AURANGABAD AND ANR

...

Advocate for Applicant :Mr S.N. Pahune Patil h/f Mr N.J. Pahune Patil
AGP for Respondent/State : Mr S.G. Sangle
Advocate for Respondent No.1 : Mr S.C. Arora

WITH

CIVIL APPLICATION NO.2098 OF 2022
IN FAST/13690/2020

KACHRU MANAJI SONAWANE

VERSUS

THE EXECUTIVE ENGG., MINOR IRRIGATION DIV.,
NO.1, MIDC, AURANGABAD AND ANR

...

Advocate for Applicant : Mr S.N. Pahune Patil h/f Mr N.J. Pahune Patil
AGP for Respondent/State : Mr S.G. Sangle
Advocate for Respondent No.1 : Mr S.C. Arora

CORAM : SHRIKANT D. KULKARNI, J.
DATE : 28th February 2022

PER COURT :

1. These are the applications for withdrawal of amount moved by the respective claimants.
2. Heard Mr S.N. Pahune Patil holding for Mr N.J. Pahune Patil, learned counsel for original claimants and Mr S.C. Arora, learned counsel for the appellant/acquiring body and Mr S.G. Sangle, learned AGP for the State.
3. Mr Pahune Patil, learned counsel for the applicants/original claimants invited my attention to the chart submitted by the applicants vide Exh.A5. He points out that as per the directions given by this Court, he has prepared the chart and placed on record along with affidavit in order to show that in those chart, land acquisition references, the State has not preferred appeal and they have accepted the award passed by the Reference Court. He submitted that these are the appeals arising out of same project and same notification and as such, the acquiring body should not have taken different view. He therefore urged to allow these applications for withdrawal of amount.
4. Mr S.C. Arora, learned counsel for applicant/acquiring body and Mr S.G. Sangle, learned AGP for the State strongly opposed to allow these applications.
5. Mr Arora, learned counsel for the applicant/acquiring body submitted that these matters are at nascent stage. The chart submitted by the learned counsel for the claimants, nowhere makes clear position about the quality, fertility of the land and other aspects. As such, it is difficult to accept the stand taken by the claimants. He further submits that the Reference Court has awarded interest under section 34 of the Land Acquisition Act from the date of notification which is contrary to the Full Bench decision of this Court in case of

State of Maharashtra Vs. Kailash Shiva Rangari reported in 2016 (3)

Mh.L.J. 457. He therefore, opposed to allow these applications for withdrawal of amount.

6. Having regard to the submissions of the learned counsel for the respective parties and the learned AGPs, I have gone through the chart submitted by the learned counsel for the claimants as well as other papers and the impugned orders passed by the Reference Court.

7. It is a practice followed by this Court to allow the original claimants to withdraw 75% of the amount in deposit with the Registrar(Judicial) and out of 75% amount, 50% of amount on furnishing usual undertaking with the Registrar (Judicial) of this Court and 25% amount on furnishing solvent surety/security which will protect the rights and interest of the appellant/acquiring body. The same needs to be applied.

ORDER

- (i) The application for withdrawal of amount by the claimants are hereby allowed as under :-
- (a) The claimants are hereby allowed to withdraw 75% of the amount of compensation with accrued interest thereon and out of 75%, 50% amount on furnishing usual undertaking to the satisfaction of the Registrar (Juridical) and remaining 25% on furnishing solvent surety/security of the like amount.
- (b) Upon furnishing such undertaking and surety/security, the Registry to make payment to the respective claimants as per procedure.
- (c) The Civil Applications are accordingly disposed of.

(SHRIKANT D. KULKARNI, J.)