

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

926 CIVIL APPLICATION NO.2968 OF 2022
IN FAST/25857/2021

BHAUSAHEB JALINDER SHERKAR

VERSUS

STATE OF MAHARASHTRA THR THE COLLECTOR,
OSMANABAD AND ORS.

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Advocate for Applicant : Mr D.D. Sarawade Patil
AGP for Respondent Nos.1 and 2: Mr P.M. Kulkarni
Advocate for Respondent No. 3 : Mr S.G. Bhalerao

AND

930 CIVIL APPLICATION NO.3126 OF 2022
IN FAST/25861/2021

FULCHAND PANDURANG SHERKAR

VERSUS

STATE OF MAHARASHTRA THR THE COLLECTOR,
OSMANABAD AND ORS

Advocate for Applicant : Mr D.D. Sarawade Patil
AGP for Respondent Nos.1 and 2: Mr P.M. Kulkarni
Advocate for Respondent No. 3 : Mr S.G. Bhalerao

CORAM : SHRIKANT D. KULKARNI, J.

DATE : 16th March, 2022

PER COURT :

1. These are the applications for withdrawal of compensation amount moved by the respective claimants/applicants.

2. Heard Mr Sarawade Patil, learned counsel for the applicants/claimants, Mr P.M. Kulkarni, learned AGP for the State/respondent Nos. 1 and 2 and Mr S.G. Bhalerao, learned counsel for respondent No. 3/acquiring body.

3. It is pointed out by Mr Bhalerao, learned counsel for respondent No. 3/ acquiring body that in these matters, the Special Land Acquisition Officer was pleased to award compensation in respect of the acquired land @ Rs.1,61,000/- per hectare and Rs.1,72,500/- per hectare. The Reference Court was pleased to award compensation in respect of acquired land at Rs.100/- per sq.ft. i.e. 70 times more than the compensation awarded by the Special Land Acquisition Officer. He submitted that the exorbitant amount of compensation has been awarded by the Reference Court simply by relying upon previous Judgment passed in one LAR proceedings. He therefore, opposed to allow these applications. By way of alternate submissions, he seeks leave to place on record copy of the order passed by the Division Bench of this Court in Civil Application No. 4699/2018 in First Appeal Stamp No. 670/2018 with connected matter dated 6th April, 2018 (Coram : S.V. Gangapurwala and A.M. Dhavale, J.J.). Leave granted.

4. Copy of order dated 6th April, 2018 is taken on record and marked 'X' for identification.

5. Mr Bhalerao, learned counsel by placing his reliance on above said order, urged to allow the claimants to withdraw 75% of the amount in deposit with undertaking, bank guarantee/solvent surety.

6. Mr Sarawade Patil, learned counsel for the applicants/claimants submitted that the acquiring body has deposited only 50% amount of compensation. As such, the applicants/claimants are entitled to withdraw entire amount of compensation deposited by the acquiring body.

7. Mr P.M. Kulkarni, learned AGPs supported to the argument advanced by Mr Bhalerao, learned counsel for the acquiring body.

8. Having regard to the submissions of learned counsel for the respective sides and the learned AGP, I have gone through the order passed by the Division Bench of this Court (supra). It is evident that in para No. 3 of the said order, the Division Bench of this Court was pleased to observe that the exorbitant enhancement has been granted by the Reference Court. By making such observations, the Division Bench of this Court was pleased to allow the applicant/claimant to withdraw 25% of the amount of compensation on furnishing undertaking to this Court and 25% on furnishing solvent surety of the like amount and 25% on furnishing bank guarantee of nationalized bank or scheduled bank. Remaining 25% of the amount was directed to be invested in Fixed Deposit Account in any nationalized bank.

9. The same recourse needs to be followed in this case. It would not be appropriate to allow the applicants to withdraw entire amount of compensation in view of the observations made by the Division Bench of this Court in above referred order in para No. 3. Hence, I proceed to pass the following order :-

ORDER

- (I) The applications are hereby allowed as under :-
- (a) The applicants/claimants are allowed to withdraw 25% of the amount of compensation on furnishing usual undertaking to the Registrar (Judicial) of this Court.
- (b) The applicants/claimants are further permitted to withdraw 25% of the amount of compensation on furnishing solvent surety of the like amount to the satisfaction of the Registrar (Judicial) of this Court.

- (c) The applicants/claimants are further permitted to withdraw 25% of the amount of compensation on furnishing bank guarantee of nationalized bank or scheduled bank.
- (d) Remaining 25% of the amount shall be invested in Fixed Deposit Account in any nationalized bank or scheduled bank.
- (e) The civil applications are accordingly disposed of.

(SHRIKANT D. KULKARNI, J.)

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