

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

**919 CIVIL APPLICATION NO. 3855 OF 2022
WITH
CIVIL APPLICATION NO. 6649 OF 2022
IN
FA/2102/2014**

**SURYABHAN SHANKAR BIRAJDAR (DIED) THROUGH LRS
MOHAN AND OTHERS
VERSUS
THE STATE OF MAHARASHTRA THROUGH COLLECTOR,
OSMANABAD AND ANOTHER
...**

**920 CIVIL APPLICATION NO. 4591 OF 2022
IN FA/297/2015**

**BABU TIPPA GHODKE
VERSUS
THE STATE OF MAHARASHTRA THROUGH COLLECTOR,
OSMANABAD AND ANOTHER
...**

**Advocate for Applicants : Mr. M.P. Tripathi h/f
Mr. N.B. Khandare
AGP for Respondent No. 1: Mr. S.G. Sangle
Advocate for Respondent No. 2 : Mr. S.S. Dande**

**....
AND
929 CIVIL APPLICATION NO. 6762 OF 2022
WITH
CIVIL APPLICATION NO.11837 OF 2021
IN
FIRST APPEAL NO. 2103 OF 2014**

**JEEVAN RAJU BIRAJDAR AND OTHERS
VERSUS
THE STATE OF MAHARASHTRA THROUGH COLLECTOR,
OSMANABAD AND ANOTHER**

...
Advocate for Applicants : Mr. M.P. Tripathi h/f
Mr. N.B. Khandare
AGP for Respondent No. 1: Mr. S.G. Sangle
Advocate for Respondent No. 2 : Mr. S.S. Dande

....
**CORAM : RAVINDRA V. GHUGE &
S.G.DIGE, JJ.**

DATE : 29.04.2022

P.C. :

1. In all these civil applications, the applicants pray for withdrawal of compensation amount. This Court had passed an order in the first appeals directing the appellants to deposit the entire amounts awarded by the Reference Courts. However, by order dated 27-03-2015, in a group of civil applications, this Court permitted withdrawal of only 50% of the amounts. A group of applicants approached the Hon'ble Apex Court in *Manik Rama Bodke, deceased through Lr's and others Vs. State of Maharashtra and another in Civil Appeal Nos. 523 of 2017*. The Hon'ble Apex Court disposed off the appeals by order dated 02-01-2017 directing that 50% of the enhanced compensation granted to the claimants shall be released without security and the balance amount of 50% shall be released on furnishing security to the satisfaction of the Collector.

2. The applicants have already withdrawn 25% of the amount deposited by tendering an affidavit undertaking and the remaining 25% by tendering solvent security to the satisfaction of the District Collector.

3. Now that the entire amount is before this Court, out of which 50% has been withdrawn, these applicants pray for the remainder amount along with the accrued interest on the same principle.

4. Mr. Dande, the learned Advocate has vehemently opposed these applications and submits that astronomical enhancement has been granted by the Reference Court. By way of an example, he states that the Special Land Acquisition officer had granted compensation @ Rs. 250/- per R in some cases. The Reference Court enhanced the compensation to Rs.10,000/- per R and Rs.12,000/- per R. Such enhancements are unsustainable in law. The appellants have a very strong case on merits and if they succeed against the impugned awards of the Reference Court, it would be very difficult to recover the amounts from these applicants.

5. We do appreciate the contentions of Mr. Dande. When this Court had directed the appellants to deposit the entire amount, the claimants were permitted to withdraw 50% with the above mentioned conditions. Since the Hon'ble Apex Court has permitted these claimants to withdraw the remainder 50% amount, we do not find that it would be appropriate for this Court to accept the submissions of the learned Advocate for the appellants.

6. In view of the above, these applications are allowed with the following directions :-

(a) Similar to the earlier directions for withdrawal, the applicants would withdraw 50% of the balance amount along with interest by tendering an affidavit undertaking stating therein that if these applicants suffer an adverse order in this litigation, they would deposit those amounts which are found to have been received in excess, in this Court, within eight (08) weeks, failing which, this Court would impose interest.

(b) The remaining amount can be withdrawn by

these applicants by furnishing security to the satisfaction of the learned Registrar (Judicial) of this Court, as the amounts are deposited at Aurangabad.

(c) The applicants would tender a copy of their Aadhar Cards duly attested and would be identified by the concerned Advocates at the time of the withdrawal of the amounts. In addition, they would also tender a recent colour photograph along with the application for withdrawal.

(S.G.DIGE, J.)

(RAVINDRA V. GHUGE, J.)