

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

CIVIL APPLICATION NO.5926 OF 2022 IN FAST/25253/2020

**GANGARAM RAOSAHEB SONNAR
VERSUS
THE EXECUTIVE ENGINEER, OSMANABAD MEDIUM PROJECT
DIVISION, OSMANABAD AND OTHERS**

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Mr. D.A. Bide, Advocate for the Applicant
Mr. M.S. Kulkarni, Advocate for Respondent No.1
Mr. S.N. Morampalle, A.G.P for Respondent Nos.2 and 3

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CORAM : SHRIKANT D. KULKARNI, J.

DATE : 21st APRIL, 2022

PER COURT:-

1. It is an application for withdrawal of compensation amount moved by the applicant / original claimant.
2. Heard Mr. Bide, learned counsel for the applicant / claimant, Mr. Mukul Kulkarni, learned counsel for respondent No.1 / acquiring body and Mr. Morampalle, learned A.G.P for respondent Nos. 2 and 3.
4. It is revealed during the course of argument that the acquiring body has deposited an amount of Rs.4,47,774/- including accrued interest in respect of the acquired land in Special

Darkhast No. 10 of 2021 (L.A.R. No. 370 of 2014). The amount is not lying in this Court and it is lying with the executing Court.

5. Mr. Bide, learned counsel for the applicant / claimant submitted that the executing Court is not allowing the claimant to withdraw the compensation amount since the appeal is pending before this Court. He further invited my attention to the copy of letter dated 16.05.2019 written by the Sub-divisional Engineer, M.K.K.V.M. Pune. He submitted that the acquiring body is not disputing the compensation amount awarded by the reference Court to the extent of land and disputing compensation awarded by the reference Court pertaining to well and stone-bandh etc.

6. Mr. Kulkarni, learned counsel for respondent no.1 / acquiring body submitted that though the communication referred by Mr. Bide, speaks likewise, but the acquiring body has challenged the impugned judgment and award on all the grounds including the compensation in respect of the acquired land. He, therefore, opposed to allow the applicant / claimant to withdraw the compensation amount.

7. Having regard to the submissions of Mr. Bide, learned counsel for the applicant / claimant, Mr. Kulkarni, learned counsel for respondent No.1 / acquiring body and Mr. Morampally, learned A.G.P for respondent Nos. 2 and 3 / State, I am of the considered view that it is for the executing Court to take decision on the application for withdrawal of compensation amount on its own merits. The application for withdrawal of compensation amount cannot be rejected only on the ground that the appeal is subjudice before this Court.

8. Hence, the applicant / claimant is at liberty to move application for withdrawal of compensation amount before the executing Court / reference Court. The reference Court / executing Court shall consider the same on its own merits and shall not reject the application only because the appeal is subjudice before this Court.

9. With the above observations, this application stands disposed of.

[SHRIKANT D. KULKARNI]
JUDGE

S.P. Rane