

IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
BENCH AT AURANGABAD.

35 CIVIL APPLICATION NO.3851 OF 2022
IN FA/2745/2021

ASHRUBA SADASHIV LAWATE
VERSUS
THE EX. ENGINEER, MEDIUM PROJECT DIV. OSMANABAD AND
OTHERS

...

Advocate for Applicant : Mr. Dnyaneshwar A. Bide.

Advocate for Respondent No.1 : Mr. Shamsundar B. Patil.

AGP for Respondent/State: Mr. S. P. Deshmukh.

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

DATE : 28th March, 2022.

P.C.:

. Heard Mr. Bide, learned counsel for applicant/claimant, Mr.S.B.Patil, learned counsel for respondent No.1 and Mr.S.P.Deshmukh, learned AGP for respondent Nos.2 and 3 / State.

2 It is revealed during the course of argument that the acquiring body has deposited an amount of Rs.84,356/- including accrued interest in respect of acquired land in Special Darkhast No.8 of 2021. The amount is not lying in this Court and the amount is lying with the Executing Court.

3 Mr. Bide, learned counsel for applicant/claimant submitted that the Executing Court is not allowing the claimant to withdraw the compensation amount. He further invited my attention to the copy of

letter dated 26th August, 2019 written by 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.

4 Having regard to the submissions of Mr. Bide, learned counsel for applicant/claimant, Mr. Patil, learned counsel for respondent No.1 and Mr. Deshmukh, learned AGP 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 *sub-judice* before this Court.

5 Hence, the applicant/claimant is at liberty to move application for withdrawal of compensation amount before the Executing Court. The Executing Court shall consider the same on its own merits. With the above observations, this application stands disposed of.

[SHRIKANT D. KULKARNI, J.]