

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

51 CIVIL APPLICATION NO.4568 OF 2022
IN FAST/39386/2019

HARIRAM TUKARAM SHELKE
VERSUS
THE EX. ENGINEER, LOWER DUDHANA PROJECT DIVISION, SELU

...

Advocate for Applicant : Mrs. Pratibha Jagdish Bharad.

Advocate for Respondent : Mr. S. C. Arora.

...

AND

53 CIVIL APPLICATION NO.4575 OF 2022
IN FAST/39376/2019

TUKARAM AASHRUBA JAGTAP
VERSUS
THE EX. ENGINEER, LOWER DUDHANA PROJECT DIVISION SELU

...

Advocate for Applicant : Mrs. Pratibha Jagdish Bharad.

Advocate for Respondent : Mr. S. C. Arora.

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

DATE : 28th March, 2022.

P.C.:

. Mrs. P. J. Bharad, learned counsel for applicants/claimants seeks leave to remove office objections and to carry out amendment. Leave granted to remove office objections and carry out amendment forthwith.

2 These are the two applications moved by the respective claimants for withdrawal of compensation amount deposited by the

appellant/acquiring body in this Court.

3 Heard Mrs. Bharad, learned counsel for original claimants and Mr. Arora, learned counsel for appellant/acquiring body.

4 It is pointed out by Mrs. Bharad, learned counsel for claimants in Civil Application No.4575 of 2022 that the Reference Court has awarded compensation within four times of the compensation determined by the SLAO. There is no case of exorbitant compensation as such. She submitted that it is a case of compulsory land acquisition and the claimants are in need of money. The claimants may be allowed to withdraw entire amount of compensation deposited by the acquiring body.

5 On the other hand, Mr. Arora, learned counsel for respondent/acquiring body opposed to allow both these applications. He submitted that the Reference Court has awarded interest under Section 28 of the Land Acquisition Act from the date of possession, which is contrary to the Full Bench decision of this Court in the case of ***State of Maharashtra Vs. Kailash Shiva Rangari***, reported in, **2016 (3) Mh.L.J. 457**. Mr. Arora, learned counsel further pointed out that, in Civil Application No.4568 of 2022, the Reference Court has made three categories of the acquired land and accordingly, awarded the compensation. For dry land, the Reference Court has awarded

Rs.2500/- per R in respect of 8 R land, Rs.5000/- per R for 16 R in respect of irrigated land and Rs.3750/- per R in respect of seasonally irrigated land. He submitted that the SLAO was pleased to award the compensation of Rs.5,09,818/- towards fruit bearing trees and the Reference Court has enhanced the same by adding Rs.1,00,000/- therein. Mr. Arora, learned counsel made similar submissions in respect of Civil Application No.4575 of 2022.

6 I have considered the submissions of both the sides. It is a practice followed by this Court to allow the claimants arising out of land acquisition matters to withdraw 75% of the amount of compensation with accrued interest thereon. I do not see any reason to take any different view in these two matters. The interest of the acquiring body can be protected by retaining 25% of the amount of compensation with accrued interest thereon. Hence, the following order is passed:

ORDER

- I. Both the applications for withdrawal of compensation amount moved by the respective claimants/applicants are hereby allowed as under:
- II. The respective applicants/claimants are hereby permitted to withdraw 50% of the amount of compensation with accrued interest thereon on

furnishing usual undertaking with the Registrar (Judicial) of this Court.

- III. The respective applicants/claimants are further permitted to withdraw 25% of the amount of compensation with accrued interest thereon on furnishing solvent surety/security to the satisfaction of the Registrar (Judicial) of this Court.
- IV. Remaining 25% of the compensation amount with accrued interest thereon shall be invested in fixed deposit account in any Nationalized Bank for a period of one year with renewal clause.
- V. Both the applications are accordingly disposed of.

[SHRIKANT D. KULKARNI, J.]

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