

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

904 CIVIL APPLICATION NO.4290 OF 2021
IN FAST/35014/2018

MALLAPPA GANPATI BYALE (DEAD) THR LRS KAMLAKAR AND OTHERS
VERSUS
STATE OF MAHARASHTRA THROUGH COLLECTOR,
OSMANABAD AND OTHERS

...
Advocate for Applicants : Mr. Ajeet B. Kale.
AGP for Respondent/State: Mr. S. G. Sangle.
...

CORAM : **SHRIKANT D. KULKARNI, J.**
DATE : 26th February, 2022.

P.C.:

. It is an application for withdrawal of amount moved by the applicants/original claimants.

2 Heard Mr. Kale, learned counsel for applicants and Mr. Sangle, learned AGP for State/respondent Nos.1 to 3.

3 Mr. Kale, learned counsel for applicants submitted that the State has deposited entire amount of compensation under the impugned award. The amount is very meager and the claimants may be allowed to withdraw 100% of the amount of compensation.

4 On the other hand, Mr. Sangle, learned AGP for the State/respondents invited my attention to the impugned judgment and

submitted that the Reference Court has relied upon certain sale instances, which are post issuance of notification under Section 4 of the Land Acquisition Act, which is contrary to the law. He submitted that the Reference Court has also relied upon one judgment in respect of acquired land, which is from adjacent village and the same is far away from the acquired land. Mr. Kale, learned counsel for applicants submitted that there is no evidence on record to show that said village is far away from the acquired land.

5 Be that as it may, the question is about withdrawal of amount. It is the practice of this Court to allow the claimants to withdraw 75% of the amount of compensation in deposit with interest thereon on furnishing undertaking and surety. By following the same view, I am convinced to allow this application as under :

ORDER

- I. The applicants / original claimants are allowed to withdraw 50% of the amount of compensation in deposit on furnishing usual undertaking to the satisfaction of the Registrar (Judicial) of this Court and remaining 25% on furnishing solvent surety/security to the satisfaction of the Registrar (Judicial).

- II. The Registry to make payment to the original claimants after furnishing such undertaking and surety/security.
- III. Civil applications is accordingly disposed of.

[SHRIKANT D. KULKARNI, J.]

nga