

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

911 CIVIL APPLICATION NO.5283 OF 2022 IN FA/547/2021

GOPAL ABA UNDRE (DIED) THROUGH L.R.S. PRALHAD (DIED)
THROUGH L.R.S. MALAN PRALHAD UNDER AND ANOTHER
VERSUS

THE EXECUTIVE ENGINEER, IRRIGATION DIVISION SINCHAN
BHAVAN, OSMANABAD AND OTHERS

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Mr. Rajendra Deshmukh, Senior Counsel i/b. Mr. R.K.
Shingnapure, Advocate for the Applicants

Mr. B.R. Surwase, Advocate for Respondent No.1

Mr. P.M. Kulkarni, 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 amount moved by the applicants / claimants.
2. Heard Mr. Rajendra Deshmukh, learned Senior Counsel for the applicants / claimants, Mr. B.R. Surwase, learned counsel for respondent No.1 and Mr. P.M. Kulkarni, learned A.G.P. for respondent Nos. 2 and 3.
3. Mr. Deshmukh, learned Senior Counsel placed on record the copy of order dated 04.12.2019 passed by this Court in civil application No. 7007/2019 in first appeal No.1167/2008 arising

out of the same group, which is kept in civil application No.5170/2022 with connected matters. He seeks similar order of withdrawal of 100% amount of compensation deposited by the acquiring body in this Court apart from the calculations of interest.

4. Mr. B.R. Surwase, learned counsel for respondent No.1 / acquiring body has been fair enough to submit that the acquiring body has deposited the entire decretal amount except the part of interest. He strongly opposed to withdraw the entire amount of compensation deposited in this Court. He submitted that the interest of the acquiring body needs to be protected.

5. The dispute seems to be *inter alia* in respect of calculations of interest. That disputed issue of interest would be considered later on. As of today, I am concerned to consider the prayer of withdrawal of compensation amount deposited by the acquiring body. It is the practice followed by this Court to allow the original claimants to withdraw 75% amount of the compensation arising out of compulsory land acquisition cases. I do not see any reason to take a different view. By taking same view, I proceed to pass the following order.

ORDER

- (i) The applications are hereby allowed as under :
- (a) The applicants / claimants are permitted to 50% of the amount with accrued interest thereon subject to furnishing usual undertaking to the satisfaction of the Registrar (Judicial) of this Court.
 - (b) The applicants / claimants are further permitted to withdraw 25% of the amount with accrued interest thereon, on furnishing solvent surety / security in the like amount to the satisfaction of the Registrar (Judicial) of this Court.
 - (c) Remaining balance amount of compensation with accrued interest thereon shall be invested in the fixed deposit with any nationalized Bank initially for a period of one year with renewal clause.
- (ii) The civil applications are accordingly disposed of.

[SHRIKANT D. KULKARNI]
JUDGE

S.P. Rane