

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

909 CIVIL APPLICATION NO.5076 OF 2022
IN
FAST/6101/2020

BALIRAM YADAV KAWADE (DECEASED) THR LRS.
RAMKISAN AND ORS.

VERSUS

EX. ENGINEER, OSMANABAD MINOR IRRIGATION DIVISION, OSMANABAD
UNDER G.M.I.D.C., AURANGABAD AND ORS

WITH
CA/5080/2022 IN FAST/5861/2020

MOHAN LIMBRAJ KAWADE AND ANR.
VERSUS

EX. ENGINEER, OSMANABAD MINOR IRRIGATION DIVISION, OSMANABAD
UNDER G.M.I.D.C., AURANGABAD AND ORS

WITH
CA/5078/2022 IN FAST/6105/2020

SUDAMATI PRALHAD KAWADE (DECEASED) THR LRS.
RAGHUNATH AND ANR
VERSUS

EX. ENGINEER, OSMANABAD MINOR IRRIGATION DIVISION, OSMANABAD
UNDER G.M.I.D.C., AURANGABAD AND ORS

WITH
CA/5079/2022 IN FAST/6109/2020

RAMESH SADASHIV KAWADE AND ANR.

VERSUS

EX. ENGINEER, OSMANABAD MINOR IRRIGATION DIVISION, OSMANABAD
UNDER G.M.I.D.C., AURANGABAD AND ORS

Mr A.N. Nagargoje Advocate h/f mr R.K. Shingnapure, Advocate for applicants
Mr B.R. Survase, Advocate for respondent No.1/acquiring body
Mr N.T. Bhagat, A.G.P. for respondents No.2 and 3

CORAM : SHRIKANT D. KULKARNI, J.

DATE : 4th May, 2022

PER COURT :

1. These are the applications for withdrawal of amount of compensation moved by the respective applicants/original claimants.
2. Heard Mr A.N. Nagargoje holding for Mr R.K. Shingnapure, learned Advocate for applicants/original claimants, Mr B.R. Survase, learned Advocate for respondent No.1/acquiring body and Mr N.T. Bhagat, learned A.G.P. for respondents No.2 and 3/State.
3. It is pointed out by Mr Nagargoje, learned Advocate appearing for applicants/claimants that this Court, vide order dated 11.3.2021 (Exh.A-Page 15) was pleased to grant stay on condition that the acquiring body shall deposit entire amount under the award within twelve weeks from the date of order. He submitted that the acquiring body has not complied with the interim stay order by depositing entire decretal amount. He submitted that in First Appeal Stamp Nos.5861 of 2020, 6109 of 2020 and 6105 of 2020, the acquiring body has deposited approximately 75% of the amount of compensation. He further pointed out that in First Appeal Stamp No.6101 of 2020, the acquiring body has deposited 56% of the amount of compensation. He further invited my attention to the chart of differences placed on record (Exh.B-page 16/17). He submitted that the acquiring body is still liable to pay Rs.48,39,200 in total for compliance of interim stay order passed by this Court in letter and spirit. He has also furnished chart of difference amount to Mr B.R. Survase, learned Advocate for acquiring body.

4. Mr B.R. Survase, learned Advocate for acquiring body seeks time to take instructions in this regard in view of chart of difference amount placed on record by the applicants/claimants.

5. The dispute about the remaining amount of compensation to be deposited in this Court would be decided lateron. As on today, the applicants/claimants are entitled to withdraw the compensation amount as per the practice followed by this Court. The claimants can be allowed to withdraw 75% of amount of compensation arising out of respective appeals.

6. As pointed out earlier, the acquiring body has not deposited 100% awarded amount and as such, whatever amount they have deposited, 75% or 56%, the claimants are entitled to get entire amount. However, by usual practice followed by this Court.

ORDER

(i) Civil Applications are hereby allowed.

(ii) The applicants/original claimants in First Appeal St.No.5861 of 2020, First Appeal St.No.6109 of 2020, First Appeal St.No.6105 of 2020 are hereby permitted to withdraw 50% amount of compensation with accrued interest thereon subject to furnishing usual undertaking to the satisfaction of Registrar (Judicial) of this Court.

(iii) They are further permitted to withdraw 25% of the amount of compensation with accrued interest thereon on furnishing solvent surety/security to the of Registrar (Judicial) of this Court.

(iv) The applicants/claimants in First Appeal Stamp No.6101 of 2020 are permitted to withdraw the entire amount which is approximately 56% on furnishing usual undertaking to the satisfaction of Registrar (Judicial) of t his Court.

(v) Civil Applications are accordingly disposed of.

(SHRIKANT D. KULKARNI, J.)

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