

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

912 CIVIL APPLICATION NO.5170 OF 2022 IN FA/1611/2021

RAJESH SADASHIV KAWADE
VERSUS
THE EXECUTIVE ENGINEER, IRRIGATION DIVISION SINCHAN
BHAVAN, OSMANABAD AND OTHERS

WITH

CIVIL APPLICATION NO.5173 OF 2022 IN FA/1612/2021

PARVATABAI SADASHIV KAWADE
VERSUS
THE EXECUTIVE ENGINEER, IRRIGATION DIVISION SINCHAN
BHAVAN, OSMANABAD AND OTHERS

WITH

CIVIL APPLICATION NO.5174 OF 2022 IN FA/1613/2021

MEERABAI DEELIP SHINDE
VERSUS
THE EXECUTIVE ENGINEER, IRRIGATION DIVISION SINCHAN
BHAVAN, OSMANABAD AND OTHERS

WITH

CIVIL APPLICATION NO.5175 OF 2022 IN FA/1614/2021

LATABAI BALASAHEB DESHMUKH
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. Ram B. Deshpande, Advocate for Respondent No.1

Mr. S.P. Deshmukh, 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. These are the application for withdrawal of amount moved by the applicant / claimant.
2. Heard Mr. Rajendra Deshmukh, learned Senior Counsel for the applicants / claimants, Mr. Ram B. Deshpande, learned counsel for respondent No.1 and Mr. P.M. Kulkarni, learned A.G.P for respondent Nos. 2 and 3.
3. Heard Mr. Rajendra Deshmukh, learned Senior Counsel for the applicant / claimant, Mr. Ram Deshpande, learned counsel for respondent No.1 / acquiring body and Mr. Deshmukh, learned A.G.P for respondent Nos. 2 and 3/ State.
4. According to Mr. Deshmukh, learned Senior Counsel, the acquiring body has not deposited the entire decretal amount in this Court and not complied with the conditional stay order. He seeks leave to place on record the copy of order dated 04.12.2019 passed by this Court in civil application No. 7004/2019 in first appeal No. 1167/2008 arising out of the same group.

5. Leave granted. The copy of order dated 04.12.2019 is taken on record and marked as 'X' for identification. Mr. Deshmukh, learned Senior Counsel seeks similar order of withdrawal of 100% amount of compensation deposited by the acquiring body in this Court apart from the calculations of interest.

6. Mr. Ram Deshpande, learned counsel for the acquiring body strongly opposed to allow the applicants / claimants to withdraw the entire amount of compensation deposited in this Court. He submitted that the interest of the acquiring body needs to be protected.

7. The dispute seems to be *inter alia* in respect of calculations of interest. According to Mr. Ram Deshpande, learned counsel for the acquiring body, the acquiring body has deposited the entire amount of compensation including interest as per the award passed by the reference Court. Whereas, Mr. Deshmukh, learned Senior Counsel submitted that the acquiring body has not deposited the entire amount of compensation with interest. Be that as it may, the applicants / claimants are entitled to withdraw 75% amount of the compensation with accrued interest thereon

deposited by the acquiring body, which may protect the interest of the acquiring body.

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 issue in respect of calculation of interest is kept open.
- (iii) The civil applications are accordingly disposed of.

[SHRIKANT D. KULKARNI]
JUDGE

S.P. Rane