

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

CIVIL APPLICATION NO.6273 OF 2022 IN FAST/31253/2019

GANPATI MAROTI GUNDALE
VERSUS
THE STATE OF MAHARASHTRA THROUGH THE COLLECTOR,
LATUR AND OTHERS

WITH

CIVIL APPLICATION NO.6275 OF 2022 IN FAST/31394/2019
WITH
CIVIL APPLICATION NO.6276 OF 2022 IN FAST/31374/2019
WITH
CIVIL APPLICATION NO.6277 OF 2022 IN FAST/31390/2019
WITH
CIVIL APPLICATION NO.6278 OF 2022 IN FAST/31378/2019

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Mr. G.K. Sontakke, Advocate for the Applicants
Mr. S.N. Morampalle, AGP for Respondent Nos. 1 and 2
Mr. S.G. Bhalerao, Advocate for Respondent No. 3

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CORAM : SHRIKANT D. KULKARNI, J.

DATE : 21st APRIL, 2022

PER COURT:-

1. These are the applications for withdrawal of compensation amount moved by the respective applicants / claimants.
2. Heard Mr. G.K. Sontakke, learned counsel for the applicants / claimants, Mr. Morampalle, learned counsel for respondent Nos.

1 and 2 / State and Mr. S.G. Bhalerao, learned counsel for respondent No.3 / acquiring body.

3. Mr. Sontakke, learned counsel for the applicants / claimants seeks withdrawal of the entire compensation amount deposited by the State, 50% of the amount with accrued interest thereon, subject to furnishing simple undertaking to the satisfaction of the Registrar (Judicial) of this Court and 50% of the amount with accrued interest thereon subject to furnishing solvent surety / security to the satisfaction of the Registrar (Judicial) of this Court. He submitted that the reference Court has awarded the compensation in respect of the acquired lands by taken into consideration the exemplars.

4. Mr. Morampalle, learned A.G.P. for the State strongly opposed to allow the application. He submitted that the reference Court has committed the manifest error in relying upon the exemplars, which pertains to the commercial plot, which cannot be the basis of determining the market value of the acquired lands. He submitted that the reference Court has awarded the compensation more than four times. He pointed out that the Special Land Acquisition Officer was pleased to award the compensation at the

rate of Rs. 750 per R (Rs.30,000/- per Acre)and the reference Court was pleased to enhance the same at the rate of 4,375/- per R (Rs.1,75,000/- per Acre). He, therefore, strongly opposed to allow the claimants to withdraw the entire amount of compensation in order to protect the interest of the State.

5. Having regard to the submissions of both the sides and looking to the points involved in the appeal, I am of the view that let the applicants / claimants to withdraw 75% amount of the compensation deposited by the acquiring body, which is the practice adopted by this Court. I do not see any reason to take any different view in this case. The interest of the State can be protected by accepting the necessary undertaking and surety from the respective applicants / claimants.

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