

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

929 CIVIL APPLICATION NO.6445 OF 2022
IN FA/3799/2017

KIRANSING DEVSING PATIL

VERSUS

THE EXECUTIVE ENGINEER,
HATNUR PROJECT SOCIETY CHOPDA,
TAL. AND DIST. JALGAON

...

Advocate for Applicants : Mr Jitendra Patil
AGP for Respondent/State :Mr P.M. Kulkarni
Advocate for Respondent No. 1: Mr Chetan Jadhav

WITH

929 CIVIL APPLICATION NO.6446 OF 2022
IN FA/3801/2017

GAJENDRA RAGHUNATH PATIL

VERSUS

THE EXECUTIVE ENGINEER,
HATNUR PROJECT SOCIETY CHOPDA,
TAL. AND DIST. JALGAON

...

Advocate for Applicants : Mr Jitendra Patil
AGP for Respondent/State :Mr P.M. Kulkarni
Advocate for Respondent No. 1: Mr Chetan Jadhav

WITH

929 CIVIL APPLICATION NO.6447 OF 2022
IN FA/3800/2017

JATANSING THABUSING PATIL (DIED)
THR HIS LRS BHIKESING JATANSING PATIL
AND ORS

VERSUS

THE EXECUTIVE ENGINEER,
HATNUR PROJECT SOCIETY CHOPDA,
TAL. AND DIST. JALGAON

...

Advocate for Applicants : Mr Jitendra Patil
AGP for Respondent/State :Mr P.M. Kulkarni
Advocate for Respondent No. 1: Mr Chetan Jadhav

CORAM : SHRIKANT D. KULKARNI, J.
DATE : 22nd APRIL, 2022

PER COURT :

1. These are the applications moved by the applicants/respective claimants for withdrawal of amount deposited by the acquiring body.
2. Heard Mr Jitendra Patil, learned counsel for the claimants, Mr Chetan Jadhav, learned counsel for the acquiring body and Mr P.M. Kulkarni, learned AGP for the State.
3. The learned counsel for the claimants submitted that the lands of the respective claimants are acquired in the year 2004. They have been deprived from getting any income. Even though the Reference Court has enhanced the compensation, the claimants have not received anything. He urged to allow the claimants to withdraw entire amount of compensation deposited by the acquiring body.
4. Mr Chetan Jadhav, learned counsel for the acquiring body strongly opposed to allow these applications. He submitted that there are strong hopes to succeed in the appeals preferred by the acquiring body. According to Mr Chetan Jadhav, the learned counsel for the acquiring body, the Reference Court has committed a manifest error in determining the market value of the acquired land. He submitted that interest of the acquiring body needs to be protected. The final hearing of the appeal may be expedited.
5. Mr P.M. Kulkarni, learned AGP for the State argued on the same lines.

6. At the outset, it is necessary to place on record that there is multiplicity of the proceedings by way of preferring appeals, one group of appeals by the State and another group of appeals by the acquiring body. Three appeals are preferred by the State in the year 2016 whereas the acquiring body has preferred three appeals in the year 2017 by challenging the same award and the same Judgment passed by the Reference Court. As such, this Court has already issued directions to the acquiring body to take necessary policy decision as to which group of appeals to proceed. To this, Mr Chetan Jadhav, learned counsel for the acquiring body submitted that the acquiring body has taken decision to prosecute their appeals and he has also filed the in-deail reply to that effect.

7. Mr Chetan Jadhav, learned counsel for the acquiring body invited my attention to the reply and submitted that in view of the points involved in the appeal, the applications may be turned down. By way of alternative submissions, he submitted that at the most, claimants may be allowed to withdraw 50% of the amount of compensation.

8. Mr P.M. Kulkarni, learned AGP for the State is disputing this position. According to him, the State has preferred the appeals first time in the year 2016 and the State has every right to prosecute their appeals.

9. Be that as it may, the question is about withdrawal of compensation amount deposited by the acquiring body. It is the practice followed by this Court to allow the claimants to withdraw 75% amount of compensation arising out of compulsory land acquisition.

10. I do not see any reason to take any different view. By taking the same view, it is necessary to allow these applications for withdrawal of compensation.

ORDER

- (A) The applications for withdrawal of compensation amount moved by the respective claimants are hereby allowed as under :-
- (i) The applicants/claimants are permitted to withdraw 50% of the compensation amount with accrued interest thereon on furnishing usual undertaking to the Registrar (Judicial) of this Court.
- (ii) The applicants are further permitted to withdraws 25% of the amount of compensation with accrued interest thereon on furnishing solvent surety/security to the satisfaction of the Registrar (Judicial) of this Court.
- (iii) The civil applications are accordingly disposed of.

(SHRIKANT D. KULKARNI, J.)

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