

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

45 CIVIL APPLICATION NO.11509 OF 2021
IN FIRST APPEAL NO.1067 OF 2019

**SHESHRAO EKNATH DETE & ANOTHER
VERSUS
THE EXECUTIVE ENGINEER, BEED IRRIGATION DIVISION
& ANOTHER**

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Advocate for Applicants : Mr.S.E.Shekade
AGP for Respondent-State : Mr.S.S.Dande
Advocate for Respondent no.1 : Mr.M.C.Swami

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CORAM : S.G.DIGE, J.
DATE : 18.07.2022

P.C. :

Heard learned counsel for the applicant,
learned A.G.P and learned counsel appearing for
respondent no.1.

2. Learned counsel for the applicants submits
that respondent No.1 has acquired the land of applicant
for minor irrigation tank. The learned reference Court
allowed the reference filed by the applicants and
directed to pay enhanced compensation amount.
Respondent No.1 was directed to deposit entire amount
by this Court. Respondent No.1 has deposited 50%
amount before this Court. The applicants withdrew 25%

amount out of 50% amount. The applicants are poor agriculturist and are in need of financial assistance. The only source of livelihood and income was agricultural land which is acquired by respondent No.1. The applicants are in need of amount for daily expenses, for education purpose and for medical purpose of family members hence request to permit to withdraw the entire deposited amount.

3. Learned counsel for respondent No.1 submits that the learned reference Court has given twenty times more amount which is disputed by respondent No.1 in appeal. The learned reference Court while granting 20 times more amount has not considered the evidence on record. If the applicants are allowed to withdraw entire amount and respondent No.1 succeed in the appeal then it will be difficult for the respondent No.1 to recover the amount. Hence requested to dismiss the application.

4. I have heard both the learned counsel. Admittedly, the lands of the applicants are acquired in the year 1996. The source of earning of the applicants

was land which was acquired by respondent No.1. The learned reference Court has passed judgment and award directing respondent No.1 to pay the compensation to the applicant. Thereafter application for enhancement of compensation amount was filed by the applicant which was allowed by the learned reference Court. Respondent No.1 is disputing about the quantum of amount awarded to the applicant. In my view, it can be considered at the time of final hearing of the appeal but till then the applicant cannot be deprived from getting compensation for which they are entitled. The applicant can be allowed to withdraw 25% of the amount of the entire deposited amount. Hence I pass the following order :

ORDER

- (i) Application is allowed.
- (ii) The applicants are permitted to withdraw 25% of deposited amount.
- (iii) Applicant shall furnish solvent surety at the time of withdrawal of amount.

(iv) Civil Application is accordingly disposed of.

[S.G.DIGE]
JUDGE

DDC