

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CIVIL APPLICATION NO. 11519 OF 2021
IN FIRST APPEAL NO. 1061 OF 2019

KASHINATH KARBHARI TOGE DIED
THR.LRS BHAUSAHEB AND OTHERS
VERSUS
THE EX. ENGINEER, BEED IRRIGATION
DIVISION AND ANOTHER

WITH
CIVIL APPLICATION NO. 11510 OF 2021
IN FIRST APPEAL 1066 OF 2019

KAMLAKAR ACHUTRAO DHAKNE
AND ANOTHER
VERSUS
THE EXECUTIVE ENGINEER, BEED
IRRIGATION DIVISION, BEED AND
ANOTHER

WITH
CIVIL APPLICATION NO. 11511 OF 2021
IN FIRST APPEAL NO. 1050 OF 2019

SUKHDEO MOTIRAM DETE
VERSUS
THE EXECUTIVE ENGINEER, BEED
IRRIGATION DIVISION, BEED AND
ANOTHER

WITH
CIVIL APPLICATION NO. 11512 OF 2021
IN FIRST APPEAL NO. 1063 OF 2019
KISAN DEORAO DETE (DIED) PRAKASH
PRACHAND DETE

VERSUS
THE EXECUTIVE ENGINEER, BEED
IRRIGATION DIVISION, BEED AND
ANOTHER

WITH
CIVIL APPLICATION NO. 11513 OF 2021
IN FIRST APPEAL NO. 1058 OF 2019

MAHADEO PANDHARINATH MUNDE
VERSUS
THE EXECUTIVE ENGINEER, BEED
IRRIGATION DIVISION, BEED AND
ANOTHER

WITH
CIVIL APPLICATION NO. 11514 OF 2021
IN FIRST APPEAL 1060 OF 2019

MANDABAI JAYWANTA MUNDE AND OTHERS
VERSUS
THE EX. ENGINEER, BEED IRRIGATION DIVISION,
BEED AND ANOTHER

WITH
CIVIL APPLICATION NO. 11515 OF 2021
IN FIRST APPEAL NO. 1068 OF 2019
DNYANOBA YOGIRAJ KHANORE (DIED)
THROUGH LRS. LATABAI DNYANOBA
KHANORE AND ANOTHER
VERSUS
THE EX. ENGINEER BEED IRRIGATION
DIVISION, BEED AND ANOTHER

WITH
CIVIL APPLICATION NO. 11516 OF 2021
IN FIRST APPEAL 1062 OF 2019
SHAIKH BABIN SHAIKH CHAND (DIED)
THR LRS SHAIKH NADU SHAIKH BIBAN
AND OTHERS
VERSUS
THE EXECUTIVE ENGINEER, BEED
IRRIGATION DIVISION, BEED AND
ANOTHER

WITH
CIVIL APPLICATION NO. 11517 OF 2021
IN FIRST APPEAL 1064 OF 2019
TRIMBAK GOVINDRAO KEKAN
AND OTHERS
VERSUS
THE EXECUTIVE ENGINEER, BEED
IRRIGATION DIVISION, BEED AND
ANOTHER

WITH

CIVIL APPLICATION NO. 11518 OF 2021
IN FIRST APPEAL 1065 OF 2019

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Advocate for the Applicant : Mr. S.E. Shekade
Advocate for Respondent No.1 : Mr. M.C. Swami
AGP for Respondent State : Mr. S. S. Dande
....

CORAM : S. G. DIGE, J.
DATE : 28.06.2022

PER COURT :-

Heard learned counsel for the applicant, learned A.G.P and learned counsel appearing for respondent.

2. Learned counsel for the applicant 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 applicant 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 applicant withdrew 25% amount out of 50% amount. The applicant 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 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 applicant 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 allow to withdraw 25% of the amount of the entire deposited amount. It is make it clear that applicant shall not file any further application for withdrawal of 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.

Civil Application is accordingly disposed of.

**(S.G. DIGE,)
JUDGE**

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