

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CIVIL APPLICATION NO. 13689 OF 2022

IN

FIRST APPEAL STAMP NO. 21464 OF 2020

INDRAJEET KASHINATH MANALE

VERSUS

THE EXE. ENGINEER, IRRIGATION DEPT.

STRENGTHENING DIVISION OMERGA

OSMANABAD AND OTHERS

WITH

CIVIL APPLICATION NO. 13690 OF 2022

IN

FIRST APPEAL STAMP NO. 21618 OF 2020

ANNAAPA KASHIRAM KAGE

VERSUS

THE EXE. ENGINEER IRRIGATION DEPT

STRENGTHENING DIVISION, OMERGA

OSMANABAD AND OTHERS

WITH

CIVIL APPLICATION NO. 13691 OF 2022

IN

FIRST APPEAL STAMP NO. 21614 OF 2020

DILEEP GURAPPA MANALE

VERSUS

THE EXE. ENGINEER, IRRIGATION DEPT.

STRENGTHENING DIV. OMERGA,

OSMANABAD AND OTHERS

WITH

CIVIL APPLICATION NO. 13692 OF 2022

IN

FIRST APPEAL STAMP NO.21599 OF 2020

SUBHASH KASHINATH MANALE

VERSUS

THE EXE. ENGINEER, IRRIGATION DEPT.

STRENGTHENING DIVISION OMERGA

AND OTHERS

.....
Advocate for the applicant : Mr. L. C. Patil
Advocate for respondent No.1 : Mr. A.S. Shelke
Advocate for respondent Nos. 2 and 3 : Mr. S. S. Dande
.....

CORAM : S. G. DIGE, J.
DATE : 30.09.2022

PER COURT :-

Heard learned counsel for the applicants and learned counsel for respondent No.1, respondent Nos 2 and 3.

2. Learned counsel for the applicants submits that applicant lands are acquired by respondent No.1 in the year 2003. Since then applicants have not received compensation from respondent No.1. Reference Court enhanced the compensation which is challenged by respondent No.1. by way of appeal. In the appeal respondent No.1 has deposited 60% amount out of award amount before this Court. This Court has permitted the appellant in connected group of matters to withdraw 60% amount out of deposited amount on furnishing undertaking in respect of 90% amount and on furnishing solvent surety in respect of 10% amount. Hence requested to pass the same order in this application.

3. It is contention of learned counsel for respondent No.1 that reference Court has enhanced the compensation 20

times more than the rate given by the Special Land Acquisition Officer. The exorbitant compensation is awarded in respect of trees which is challenged by respondent No.1 before this Court. If applicants are permitted to withdraw the entire amount, it would be difficult for respondent No.1 to recover it in case if respondent No.1 succeed in the appeal. Hence requested to dismiss the application.

4. It is contention of learned counsel for the applicants that respondent No.1 be directed to deposit remaining award amount.

5. I have heard both the learned counsel. Admittedly, the lands of the applicants are acquired in the year 2003 since then applicants have not received the compensation. The Tribunal has enhanced the compensation which is challenged by respondent No.1 in this appeal. Applicants are poor farmers. They need the amount for their daily expenses. Respondent No.1 has deposited 60% amount out of the award amount before this Court. If respondent No.1 succeeds in the appeal the 40% amount is yet to be deposited and if undertaking is taken from the applicant after withdrawal of the amount, it would meet the ends of justice. Hence I pass the following

order.

ORDER

- (I) Application is allowed.
- (ii) Applicants are permitted to withdraw 90% amount along with accrued interest thereon out of 60% deposited amount on furnishing undertaking before the learned Registrar (Judicial).
- (iii) Applicants are permitted to withdraw remaining 10% amount along with accrued interest thereon on furnishing solvent surety/ security.
- (iv) The Civil Applications are disposed of.

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

ysk