

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD
CIVIL APPLICATION NO.13688 OF 2022
IN FAST/21605/2020**

SHIVAPPA GANPATI MANALE (DIED) THR LRS.
ASHOK SHIVAPPA MANALE AND ANR

VS

THE EXE. ENGINEER, IRRIGATION DEPT.
STRENGTHENING DIV. OMERGA, AND OTHERS

...

Mr. L. C. Patil, Advocate for the Applicants.

Mr. S. S. Dande, AGP for Respondents-State.

Mr. A. S. Shelke, Advocate for Respondent No.1.

...

CORAM : S. G. DIGE, J.

DATED : 14th OCTOBER, 2022.

PER COURT:-

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

2. The learned counsel for the applicants submits that the applicants' 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 appeal.

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 all the learned counsels.

6. 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

- a. Application is allowed.
- b. Applicants are permitted to withdraw 90% amount alongwith accrued interest thereon out of 60% deposited amount on furnishing undertaking before the learned Registrar (Judicial).
- c. Applicants are permitted to withdraw remaining 10% amount alongwith accrued interest thereon furnishing solvent surety/security.
- d. Civil Application is disposed of.

(S. G. DIGE)
JUDGE

Devendra/October-2022