

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

936 CIVIL APPLICATION NO.1225 OF 2022 IN FAST/19493/2020

MADHUKAR YADAV PANKADE AND ANOTHER
VERSUS
THE EXECUTIVE ENGINEER NANDUR MADHMESHWAR
IRRIGATION DIVISION VALJAPUR, THOUGH PRAVIN VASANTRAO
SURASHE AND ANOTHER

AND

937 CIVIL APPLICATION NO.1226 OF 2022 IN FAST/19498/2020

LATABAI TAYTARAO POL AND ANOTHER
VERSUS
THE EXECUTIVE ENGINEER NANDUR MADHMESHWAR
IRRIGATION DIVISION VALJAPUR, THOUGH PRAVIN VASANTRAO
SURASHE AND ANOTHER

AND

938 CIVIL APPLICATION NO.1227 OF 2022 IN FAST/19485/2020

DEVIDAS GANGADHAR JADHAV
VERSUS
THE EXECUTIVE ENGINEER NANDUR MADHMESHWAR
IRRIGATION DIVISION VALJAPUR, THOUGH PRAVIN VASANTRAO
SURASHE AND ANOTHER

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Mr. R.V. Gore, Advocate for the Applicants
Mr. S.C. Arora, Advocate for Respondent No.1
Mr. A.B. Chate, AGP for Respondent No.2

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CORAM : SHRIKANT D. KULKARNI, J.

DATE : 15th FEBRUARY, 2022

PER COURT:-

1. These are the applications for withdrawal of amount moved by the applicants / original claimants.
2. Heard Mr. R.V. Gore, learned counsel for the applicants, Mr. S.C. Arora, learned counsel for respondent No.1 / acquiring body and Mr. Chate, learned AGP for respondent No.2.
3. Mr. Gore, learned counsel for the applicants submitted that this Court was pleased to stay the execution of the impugned judgment and award passed by the reference Court on condition to deposit 40% amount of compensation by the acquiring body within twelve weeks from the date of passing of the order. He submitted that the acquiring body has deposited 40% amount of compensation as per the order passed by this Court. The applicants are entitled to withdraw 100% of the amount of compensation deposited by the acquiring body. He submitted that the learned reference Court has rightly determined the market value of the acquired land on the basis of sale deed coupled with other attending circumstances.

4. Mr. Arora, learned counsel for respondent no.1 / acquiring body opposed to allow these applications. He invited my attention to the observations made by this Court in the order dated 14.12.2020 while granting the stay. He pointed out that this Court was pleased to observe that the reference Court has awarded compensation 20 times of the compensation determined by the Special Land Acquisition Officer. The reference Court has relied upon the sale instance of small portion of land i.e. 20 R for determination of the compensation, which is incorrect. Mr. Arora submitted that he is ready to work out the appeals finally. The applications may be rejected.

5. Mr. Chate, learned AGP for respondent no.2 mixed his voice in the tone of Mr. Arora and practically adopted his argument.

6. On perusing the conditional stay order passed by this Court dated 14.12.2020, it is noticed that this Court was pleased to stay the execution of the impugned judgment and award passed by the reference Court on condition that the acquiring body shall deposit 40% of the compensation amount within twelve weeks from the date of order. Accordingly, that order has been complied with. The

question is about the payment. The applicants are seeking 100% withdrawal, which is opposed by the acquiring body. At this stage, I am not supposed to touch the merits of the appeals. Whatever observations made by this Court are *prima facie*. Those aspects are relating to the merits of the appeals. That would be considered while deciding the appeals.

7. Having regard to the submissions of learned counsel for both the sides, I am of the view that if the applicants are allowed to withdraw 50% amount of the compensation deposited by the acquiring body on condition that they shall furnish usual undertaking to the satisfaction of the Registrar (Judicial) of this Court, it would meet the ends of justice.

8. Having regard to the above reasons and discussion, I am convinced to allow these application are as under:

ORDER

(i) The applications moved by the respective applicants in first appeal stamp numbers 19493 of 2020, 19498 of 2020 and 19485 of 2020 for withdrawal of amount are hereby allowed.

(ii) The applicants are permitted to withdraw 50% of the amount of compensation deposited by the acquiring body with accrued interest thereon on condition that they shall furnish usual undertaking to the satisfaction of the Registrar (Judicial) of this Court.

(iii) Civil applications are accordingly disposed of.

[SHRIKANT D. KULKARNI]
JUDGE

S.P Rane