

IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
BENCH AT AURANGABAD.

914 CIVIL APPLICATION NO.13449 OF 2021

IN FA/897/2021

WITH CA/13448/2021 IN FA/898/2021

WITH CA/13450/2021 IN FA/895/2021

WITH CA/13451/2021 IN FA/896/2021

RAJIV SITARAM PATIL AND OTHERS

VERSUS

THE COLLECTOR, JALGAON AND OTHERS

...

Advocate for Applicants : Mr. Ajeet B. Kale.

AGP for Respondent/State: Mr. S. N. Morampalle.

Advocate for Acquiring Body : Mr. A. D. Pawar.

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CORAM : **SHRIKANT D. KULKARNI, J.**

DATE : 01st April, 2022.

P.C.:

. These are the applications for withdrawal of compensation amount moved by the respective applicants/claimants.

2 Heard Mr. Kale, learned counsel for the claimants, Mr. Pawar, learned counsel for the acquiring body and Mr. Morampalle, learned AGP for the State.

3 It is revealed during the course of argument that the lands of the respective claimants came to be acquired for expansion of Gaothan by the State Government. The SLAO was pleased to award compensation in respect of acquired lands at the rate of Rs.3,80,000/-

per Hectare. The claim put forth by respective claimants in respect of acquired lands was Rs.2,000/- per square meter. The Reference Court was pleased to enhance the same at Rs.500/- per square meter.

4 Mr. Kale, learned counsel for the original claimants took me through the relevant part of the impugned judgment and pointed out that at the relevant point of time, the market price of the acquired lands was in the range of Rs.5,000/- per square meter. The Reference Court has committed grave error in making calculations and simply enhanced the compensation at Rs.500/- per square meter. He submitted that the acquired lands were for rehabilitation of the persons by way of expansion of Gaothan. The Reference Court has awarded inadequate compensation having regard to the market price of the acquired lands at the relevant time when notification under Section 4 of the Act came to be published. He, therefore, submitted that the compensation awarded by the Reference Court is very much inadequate. The applicants/claimants may be permitted to withdraw the entire amount of compensation.

5 On the other hand, Mr. Pawar, learned counsel for the acquiring body opposed to allow the claimants to withdraw 100% of the amount of compensation. He submitted that the sale instance relied upon on behalf of the claimants is discarded by the Reference Court. The

Reference Court has awarded the compensation by making guesswork, which is not permissible when the sale instance is on record. He further submitted that the Reference Court has committed error by not deducting the development costs/development charges while making calculations of the compensation amount. As a result, it has arrived at exorbitant compensation. The acquiring body has challenged the impugned judgment and award passed by the Reference Court. As such, the claimants are not entitled to withdraw the entire amount of compensation.

6 Mr. Morampalle, learned AGP for the State made similar submissions and opposed to allow these applications.

7 It is undisputed position that the lands of the respective claimants came to be acquired by the State for expansion of Gaothan and that too for rehabilitation of the villagers. It is also evident from the impugned judgment that Survey Nos.502/A and 503/A were converted into NA and certain plots were also sold, meaning thereby the acquired lands have NA potentiality. The acquired lands are also adjoining to the Gaothan and therefore, those are acquired for the expansion of Gaothan. In this background, the Reference Court seems to have awarded the compensation on the basis of per square meter. Other points raised during the course of argument would be taken into

consideration at the time of hearing of the appeals and not at this stage.

8 It is pointed out by Mr. Kale, learned counsel for claimants that the acquiring body has deposited only 70% of the amount of compensation with accrued interest thereon.

9 Mr. Pawar, learned counsel for acquiring body has also fairly conceded this position. He submitted that as per the Court order the acquiring body has deposited 70% of the amount of compensation.

10 It is a practice followed by this Court to allow the claimants arising out of land acquisition matters to withdraw 75% of the amount of compensation. In this case, the appellant/acquiring body has deposited 70% of the amount of compensation. As such, the claimants are entitled to withdraw the entire amount of compensation, which is deposited by the acquiring body in this Court. The interest of the acquiring body has been taken care of by retaining 30% of the amount of compensation. Hence, the following order is passed:

ORDER

- I. The applications are hereby allowed.
- II. The respective applicants/claimants are hereby

permitted to withdraw 50% of the amount of compensation with accrued interest thereon on furnishing usual undertaking with the Registrar (Judicial) of this Court.

III. The respective applicants/claimants are further permitted to withdraw 20% of the amount of compensation with accrued interest thereon on furnishing solvent surety/security to the satisfaction of the Registrar (Judicial) of this Court.

IV. The applications are accordingly disposed of.

[SHRIKANT D. KULKARNI, J.]

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