

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

917 CIVIL APPLICATION NO.2082 OF 2022

IN FA/555/2020

WITH CA/2078/2022 IN FA/550/2020

WITH CA/2079/2022 IN FA/552/2020

WITH CA/2081/2022 IN FA/551/2020

WITH CA/2080/2022 IN FA/549/2020

ARJUN KONDIBA JAIWAL

VERSUS

THE STATE OF MAHARASHTRA AND ANOTHER

...

Advocate for Applicant : Mr. D. A. Bide.

AGP for Respondent/State: Mr. A. B. Chate.

...

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

DATE : 03rd March, 2022.

P.C.:

. These are the applications for withdrawal of amount moved by the original claimants.

2 Heard Mr. Bide, learned counsel for applicants/original claimants and Mr. Chate, learned AGP for State/appellant. The State/appellant has preferred these appeals feeling aggrieved by the rate of compensation awarded by the Reference Court.

3 During course of argument, it is revealed that in First Appeal No.555 of 2020, the Special Land Acquisition Officer was pleased to determine the market price of the acquired land at Rs.1210/- per R and the Reference Court was pleased to enhance the same at Rs.9720/-

per R, in First Appeal No.550 of 2020, the Special Land Acquisition Officer was pleased to determine the market price of the acquired land at Rs.980/- per R and the Reference Court was pleased to enhance the same at Rs.6477/- per R, in First Appeal No.552 of 2020, the Special Land Acquisition Officer was pleased to determine the market price of the acquired land at Rs.980/- per R and the Reference Court was pleased to enhance the same at Rs.9720/- per R, in First Appeal No.551 of 2020, the Special Land Acquisition Officer was pleased to determine the market price of the acquired land at Rs.1210/- per R and the Reference Court was pleased to enhance the same at Rs.9720/- per R, and in First Appeal No.549 of 2020, the Special Land Acquisition Officer was pleased to determine the market price of the acquired land at Rs.1210/- per R and the Reference Court was pleased to enhance the same at Rs.6477/- per R.

4 Mr. Bide, learned counsel for original claimants submitted that the claimants may be permitted to withdraw 100% amount of compensation. 75% on furnishing usual undertaking and 25% on furnishing security/bank guarantee. He submitted that the Reference Court has not considered 15% rise in the market price of the acquired land in view of the ratio laid down by the Honourable Supreme Court in the case of *Krishi Utpadan Mandi Samiti Sahaswan District Badaun through its Secretary Vs. Bipin Kumar and another*, reported in, (2004)

2 SCC 283. He, therefore, urged to allow the applicants to withdraw the entire amount of compensation.

5 Mr. Chate, learned AGP for Appellant/State strongly opposed to allow this applications. According to the learned AGP, the Reference Court has awarded exorbitant compensation. The Reference Court has not properly appreciated the evidence on record and the sale instances and awarded the huge amount of compensation. He, therefore, opposed to allow these applications for withdrawal of amount. By way of alternate submissions, Mr. Chate, learned AGP for the State submits that it is the practice of this Court to allow the claimant to withdraw 75% of the compensation amount and out of it, 50% on undertaking and 25% on solvent surety/security. To that extent, the Court may allow the claimants to withdraw the amount.

6 Having regard to the submissions of Mr. Bide, learned counsel for original claimants and Mr. Chate, learned AGP for State and on going through the impugned judgment and award passed by the Reference Court, it seems that the Reference Court has made category of acquired lands as dry land and seasonal irrigated land. There is disputed question of fact regarding the category of acquired land in view of well situated in the acquired lands. That aspect would be dealt with at the time of final hearing of appeals coupled with the

issue of 15% rise in the market price in view of the Apex Court judgment in the case of *Krishi Utpadan Mandi Samiti Sahaswan District Badaun through its Secretary Vs. Bipin Kumar and another* (supra). The question is about withdrawal of compensation. It is the practice of this Court to allow the claimant to withdraw 75% of the amount of compensation and out of it, 50% on furnishing usual undertaking and 25% on furnishing solvent surety/security to the satisfaction of the Registrar (Judicial) of this Court. It would meet the ends of justice if that practice is followed even in these appeals. That would take care of interest of the appellant involved in the appeals. Hence, the following order is passed:

ORDER

- I. The applications for withdrawal of amount of compensation moved by the respective claimants are hereby allowed.
- II. The applicants/original claimants are hereby permitted to withdraw 75% of the amount of compensation with accrued interest thereon and out of it, 50% on furnishing usual undertaking and 25% on furnishing security/surety to the satisfaction of the Registrar (Judicial) of this Court.

- III. After furnishing such undertaking and surety/security,
the Registry to make payment to the respective
claimants as per the procedure.
- IV. Civil applications are accordingly disposed of.

[SHRIKANT D. KULKARNI, J.]

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