



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

**12 CIVIL APPLICATION NO.4115 OF 2023
IN FA/63/2016**

**GANGABAI BABURAO BHANDE (DIED) THR LRS. VITTHAL
BABURAO BHANDE AND ORS
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS**

...
Advocate for Respondent Nos. 1 to 6: Mr.V. G. Sakolkar
AGP for Appellants/State : Mr. S.K. Shirse
...

CORAM : KISHORE C. SANT, J.

DATE : 06.12.2023.

PER COURT :

1. Heard the learned Advocates for the parties. Though the matter is appearing for final disposal, however, due to paucity of time, the same could not be reached for final hearing. Twice the Court passed an order that if the matter is not taken for final disposal, an application for withdrawal of an amount would be considered. This application, therefore, needs to be considered.

2. This application is by the original Claimants/respondents in the First Appeal. Their lands came to be acquired for

percolation tank number-3 at village Kumdal, Tahsil Devni, District Latur. The lands were acquired vide notification under Section 4 dated 02.05.2005. The learned SLAO passed an award @ Rs. 805/- per R for all the lands. The reference Court enhanced an amount of compensation of Rs. 2900/- per R for dry land and Rs. 4350/- per R for semi irrigated land.

3. In An appeal by the State the respondent State has deposited 100% amount. The learned Advocate Mr. Sakolkar appearing for the respondents submits that taking the case as it is, an amount granted for dry land is less than four times of the rate of award by the learned S.L.A.O., the rate for semi irrigated land is only 4.5 times of the amount granted by the S.L.A.O. It is the submission that considering this, 75% amount be directed to be withdrawn by the claimants.

4. Mr.Shirshe, learned AGP opposes an application submitting that there are grounds involved in the appeal. If an amount is permitted to be withdrawn, it would be difficult to recover the said amount in case the appeals are allowed.

5. Considering that an amount of enhancement in respect of dry land is less than 4 times of the award as by the

S.L.A.O. and it is only 4.5 times more in the cases of semi irrigated land, in the interest of justice, allowed the claimants to withdraw 75% amount deposited in this Court. Hence following order :

ORDER

a) The application stands partly allowed and disposed off.

b) Applicants/Original Claimants are allowed to withdraw 50% amount with accrued interest thereon deposited in this Court by furnishing usual undertaking and 25% amount is allowed to be withdrawn by furnishing solvent surety/security each to the satisfaction of the learned Registrar (Judicial) of this Court with accrued interest.

c) Remaining 25% amount with accrued interest thereon be deposited in Fixed Deposit any Nationalized Bank to be renewed periodically till disposal of an appeal.

**(KISHORE C. SANT)
JUDGE**

mahajansb/