

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

941 CIVIL APPLICATION NO.4386 OF 2022
IN FA/3810/2022

THE EX. ENGINEER, WAGHUR DAM DIV. JALGAON AND ANR
VERSUS
TUKARAM UDDHAV ROTE LRS. PRAMOD AND ORS

...
AND

CA/4388/2022 IN FA/3820/2022

...
Advocate for Applicants : Mr. V. V. Tarde
AGP for Respondents 3,4 : Ms PV. Diggikar
Advocate for Respondents 1,2 : Mr. A.B. Kale

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CORAM : S. G. CHAPALGAONKAR, J.
Dated: July 12, 2023

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PER COURT :-

1. By these applications, the applicants/appellants seeks stay to the impugned award passed by the Reference Court. Mr. Tarde, learned advocate appearing for the applicants submits that substantive appeal is filed against the award. There are good grounds in appeal. Relying upon the observations of the Hon'ble Supreme Court in the matter of Basant Kumar and others Vs. Union of India reported in **(1996) 11 SCC 542** and Rajashekhar Sankappa Taradandi and others Vs. Assistant Commissioner and Land Acquisition Officer and others reported in **(1996) 9 Supreme Court Cases 642**, he would submit that the different circumstance appearing on record of the Reference Court will have to be taken into account for the purpose of deciding the compensation. He submits that straight jacket formula cannot be adopted while fixing the value of the land based on some different awards.

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2. Mr. Kale, learned advocate appearing for the respondents submits that on due consideration of the sale-deeds and also an award passed under National High Ways Act, reference Court has determined the appropriate compensation by applying the principles underlined under section 23 of the Act. He would therefore submits that the applicant be directed to deposit the entire awarded amount if execution of the award is to be stayed.

3. Apparently, the applicants are challenging the money decree. Reference Court made observations regarding the assessment of compensation in paragraph no.22 to 25 of the impugned judgment. Prima facie, it appears that voluminous evidence has been taken into service by the claimants to support their contentions on the point of valuation of the land as on the date of the notification under section 4 of the Land Acquisition Act.

4. Considering the aforesaid facts, civil applications are allowed subject to the condition that the appellants deposits entire amount of award alongwith the interest with the Registry of this Court within a period of 12 (Twelve) weeks from today. Civil applications are disposed off.

(S. G. CHAPALGAONKAR, J.)

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