

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

CIVIL APPLICATION NO. 6412 OF 2023
IN
FIRST APPEAL [ST] NO. 14555 OF 2018

Shivaji Rama Kale (died)
His LRs – Netaji Shivaji Kale ... Applicant

Versus

The State of Maharashtra, through the Collector,
Osmanabad and another. ... Respondents

...

Mr. L. C. Patil – Advocate for applicant
Mr. A. B. Chate – AGP for respondent/State
Mr. G. B. Rajale – Advocate for respondent no. 2

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CORAM : S. G. CHAPALGAONKAR, J.

DATE : 21st JUNE, 2023

PER COURT :

1. The applicants/claimants have moved this application seeking withdrawal of amount deposited by appellant/acquiring body.
2. Heard learned counsel for applicants/claimants and learned counsel for respondent No. 2 – acquiring body.
3. In brief, it is the contention of learned counsel for applicants/claimants that the Appeal filed is devoid of merit. The enhancement of compensation by Reference Court is based upon due assessment and analysis of evidence adduced in the case. It is submitted that the Special Land Acquisition Officer has awarded the

compensation @ Rs. 225/- per R. for Jirayat land as well as semi irrigated land. The Reference Court has enhanced the same @ Rs.1,225/- per R. for jirayat land and Rs. 1,834/- per R. for semi irrigated land.

4. Learned counsel for appellants would submit that they have good case to succeed in Appeal. The reference court granted enhancement of compensation for more than 4 times of award passed by Special Land Acquisition Officer. There is no evidence to justify the such enhancement of compensation.

5. Having considered the submissions advanced and taken note of the fact that the applicants/claimants are fighting for their legitimate right to receive compensation since the year 1996, I am of the view that applicants can be allowed to withdraw the amount to the extent of 80% of deposit on furnishing written undertaking to the effect that in case Award is set aside or modified, the applicants shall redeposit the amount within eight weeks from the date of passing of such order. Hence, the following order.

ORDER

- [i] The application is allowed.
- [ii] The applicants/claimants are permitted to withdraw the amount to the extent of 80% of the amount deposited in their respective appeals on furnishing written undertaking to the effect that in case Award is set aside or modified, the applicants shall redeposit the amount within eight weeks from the date of passing of such order.

[iii] The amount be paid to applicants by transferring the amount in their respective savings bank account as per the particulars of bank account to be furnished by the applicants.

6. The application is disposed of in above terms.

[S. G. CHAPALGAONKAR]
JUDGE

SG Punde