

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD
CIVIL APPLICATION NO.7795 OF 2023
IN FAST/23287/2020**

SEETABAI W/O KASHIRAO PATIL DIED THR LRS. TRIMBAK
S/OKASHIRAO PATIL AND ANOTHER
VERSUS
THE EX. ENGINEER, MED. PRO. OFFICE NO.2 OSMANABAD
AND ORS

...

Mr. Sanjay A. Wakure, Advocate for the Applicants.
Mr. S. S. Dande, AGP for Respondents-State.
Mr. S. W. Munde, Advocate for Respondent No.1.

...

CORAM : S. G. CHAPALGAONKAR, J.

DATE : 14th JULY, 2023.

PER COURT:-

1. By this application, the applicants seek to withdraw the amount deposited by the appellants-acquiring body in the First Appeal.

2. Mr. Wakure, learned Advocate appearing for the applicants submits that their lands have been acquired in the year 2005. They have lost the valuable property and the source of income. Till this date, they have not received the adequate compensation. He would also submit that the Reference Court after considering the comparative sell instances and also Award passed in LAR No.1150/2014, which is from same village and under same Notification, the rate of the land is fixed. Therefore, he seeks permission to withdraw the entire compensation amount, that is 70% of Award, deposited by the acquiring body.

3. The learned Advocate appearing for the respondent-acquiring body opposes the application contending that there are good grounds in appeal and enhancement of more than seven times has been granted by the Reference Court.

4. Having considered the rival submissions, it can be gathered that the Reference Court has recorded adequate reasons while fixing the market value of acquired land.

5. Mr. Wakure, learned Advocate appearing for the applicants further points out that in an appeal filed by the acquiring body against the Award passed in LAR No.1150/2014, this Court permitted the claimants to withdraw 70% of the amount out of total awarded amount deposited by acquiring body subject to certain conditions and the same course can be followed. He submits that in present matter only 70% amount of Award is deposited by acquiring body and seeks permission to withdraw total amount in deposit.

6. The learned Advocate appearing for the respondents does not dispute the aforesaid submissions.

7. In that view of the matter, civil application needs to be allowed. Hence, the following order:-

ORDER

- a. Civil Application is allowed.
- b. The applicants are permitted to withdraw 65% of the amount deposited by the respondent-acquiring body alongwith

proportionate interest accrued thereon subject to furnishing usual undertaking to the satisfaction of the Registrar (Judicial) of this Court.

c. The applicants are permitted to withdraw remaining amount out of the deposited amount alongwith accrued interest thereon on furnishing solvent surety/security to the satisfaction of the Registrar (Judicial) of this Court.

8. Civil Application is disposed of.

(S. G. CHAPALGAONKAR)
JUDGE