

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD
CIVIL APPLICATION NO.8884 OF 2023
IN FA/3306/2022**

RAOSAHEB NIVRUTTI DANGAT DIED THR LRS LAXMIBAI
RAOSAHEB DANGAT AND ORS

VERSUS

THE EX. ENGINEER, IRRIGATION PROJECT DIV. JALNA
THR G.M.I.D.C., AURANGABAD AND ORS

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Mr. More Kumar Gaurav M, Advocate for the Applicants.

Mr. A. B. Chate, AGP for Respondents-State.

Mr. M. C. Swami, Advocate for Respondent No.1.

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CORAM : S. G. CHAPALGAONKAR, J.

DATE : 04th AUGUST, 2023.

PER COURT:-

1. By this application, the applicants seek permission to withdraw the amount deposited by the acquiring body in pursuance of the award passed by the Reference Court.

2. The contention of the applicants is that the acquiring body has filed solitary appeal in the present case aggrieved by the compensation towards fruit bearing trees. It is submitted that in other matters out of the same acquisition, no appeals are filed since the market rate of acquired land as assessed by the Reference Court is accepted by the appellants.

3. The learned Advocate appearing for the respondents submits that Reference Court not only granted excess compensation towards fruit bearing trees, but also excessive interest on the compensation amount is granted contrary to the Full Bench decision of this Court in the matter of **State of Maharashtra Vs. Kailash Shiva Rangari**¹.

4. Having considered submissions advanced, it is

¹ (2016) 3 Mh. L.J. 457

apparent that the applicants are litigating for the compensation towards acquired land. The Reference Court on consideration of the sale instances and other material on record, determined market value of the acquired land. The compensation is granted towards fruit bearing trees based on report of valuation. *Prima facie*, the findings are in favour of the claimants, therefore, it would be equitable to permit them to withdraw part of the compensation amount subject to certain conditions. Hence, the following order:-

ORDER

- a. Civil Application is allowed.
- b. The applicants are permitted to withdraw 50% of the amount deposited by the acquiring body alongwith accrued interest thereon on furnishing undertaking to the satisfaction of the Registrar (Judicial) of this Court.
- c. The applicants are further permitted to withdraw 20% of the amount in deposit subject to furnishing of solvent surety/security to the satisfaction of the Registrar (Judicial) of this Court.
- d. The balance 30% amount be invested in the Fixed Deposit with the Nationalized Bank initially for a period of one years with renewal clause.
- e. Civil Application is disposed of.

(S. G. CHAPALGAONKAR)
JUDGE