

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

**CIVIL APPLICATION NO.7617 OF 2023
IN FAST/24491/2020**

**RATNAPPA KALAPPA SARNE
VERSUS
THE STATE OF MAHARASHTRA, THROUGH THE
COLLECTOR, OSMANABAD AND ORS**

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Mr. S. S. Birajdar, Advocate for the Applicant.

Mr. S. S. Dande, AGP for Respondents-State.

Mr. M. C. Swami, Advocate for Respondent No.3.

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CORAM : S. G. CHAPALGAONKAR, J.

DATE : 11th AUGUST, 2023.

PER COURT:-

1. By this application, the applicant seeks permission to withdraw the amount deposited by the respondent-Acquiring Body in pursuance of the award passed by the Reference Court.

2. The learned Advocate appearing for the applicant submits that this Court by order dated 16.07.2021 directed the respondents to deposit 75% of the compensation amount, which is deposited by the Acquiring Body. It is submitted that the lands alongwith fruit bearing trees and constructed well have been acquired by the respondent and the applicant is waiting for the compensation. It is further submitted that relying upon the previous judgments relating to the comparable lands from vicinity of the acquired land, the Reference Court has determined the land value. The Valuer has been examined to prove the actual valuation of the fruit bearing trees. The order passed by the

Reference Court is based on the material placed into service. As such, he urges to release entire amount deposited by the Acquiring Body.

3. Per contra, Mr. Swami, learned Advocate appearing for the Acquiring Body submits that the exponential enhancement has been granted by the Reference Court relying upon the previous judgments. However, there is nothing to indicate that the lands acquired are comparable to the lands, which were subject matter of previous decisions. He would further submit that the valuation done by the person, who is not Government approved. He would further submit that the interest is also excessively granted inconsistent with the Full Bench judgment in the matter of **State of Maharashtra Vs. Kailash Shiva Rangari**¹.

4. Considering the submissions advanced and after perusal of the reasoning adopted by the Reference Court, it would be appropriate to permit the applicant to partially withdraw the compensation amount subject to certain conditions. Hence, the following order:

ORDER

- a. Civil Application is partly allowed.
- b. The applicant is permitted to withdraw 75% of the compensation amount deposited by the Acquiring Body subject to furnishing of usual undertaking to the satisfaction of the Registrar (Judicial) of this Court.

1 (2016) 3 Mh. L.J. 457

- c. Balance of the amount be kept in Fixed Deposit in any Nationalized Bank initially for a period of one year with renewal clause.
- d. Civil Application is disposed of.

(S. G. CHAPALGAONKAR)
JUDGE

Devendra/August-2023