

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CIVIL APPLICATION NO.7567 OF 2023
IN FA/3485/2022

PANDHARINATH DNYANOBA KENDRE AND ORS
VERSUS
THE EXECUTIVE ENGINEER MINOR IRRIGATION DIVISION NANDED TAL
AND DIST NANDED AND ORS

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Advocate for Applicants : Mr. Kale Ajeet B.
AGP for Respondent No.1 – State : Mr. A. M. Phule
Advocate for Respondent Nos.2 and 3 : Mrs. Chaitali R. Kutti Chaudhari
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CORAM : SMT. VIBHA KANKANWADI AND
ABHAY S. WAGHWASE, JJ.

DATE : 1st September, 2023

ORDER :-

. Present application has been filed for withdrawal of entire 75% of the awarded amount. Present applicant is the original claimant in Land Acquisition Reference No.537 of 2010. The appeal has been preferred by the acquiring body to challenge the award. By order dated 11.10.2022 passed by this Court stay to the impugned award was granted, subject to deposit of 75% of the amount along with interest accrued thereon till date within a period of 12 weeks. By order dated 04.01.2023, extension was prayed by the acquiring body and it was granted. It appears that amount of Rs.8,95,80,545/- came to be deposited on 15.04.2023.

2. Heard learned Advocate Mr. A. B. Kale for the applicants, learned Advocate Mrs. Chaitali R. Kutti Chaudhari respondent No.1 and learned AGP Mr. A. M. Phule for respondent Nos.2 and 3 – State .

3. According to the learned Advocate for the original claimants whatever has been awarded by the reference Court is in fact meager amount and he has taken into consideration the evidence, but then still deducted 50% in respect of fruit bearing trees. Up till now amount has not been given to the claimants though their land has been acquired long back and, therefore, they be allowed to withdraw the entire amount.

4. Learned Advocate for the acquiring body objects and submits that though it has been observed by the learned reference Court that basic evidence has not been produced to prove that there were fruit bearing trees, their numbers and how much was the age of the trees and therefore, whatever 50% has been awarded is also beyond the evidence.

5. It is not in dispute that the land belonging to the original claimants has been acquired. Under the said circumstance, it is the bounden duty of the acquiring body to compensate them adequately. Now, there is dispute as regards the the rate as well as the fact that there were many trees in the land. It appears from the record that in all four witnesses were examined by the claimants and then by appreciating their evidence, the impugned

award has been passed. The appeal has been preferred by the acquiring body for the grounds enumerated in the appeal memo. Definitely, the interest of the claimants is also required to be protected. Under the said circumstance, the application stands partly allowed.

6. The applicants – original claimants are allowed to withdraw amount of Rs.6,50,00,000/- (Rupees Six Crore Fifty Lakhs).

7. Accordingly, application stands disposed of.

[ABHAY S. WAGHWASE]
JUDGE

[SMT. VIBHA KANKANWADI]
JUDGE

scm