

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

992 CIVIL APPLICATION NO.9746 OF 2023
IN FAST/25288/2020 WITH CA/8038/2021 IN FAST/25288/2020 WITH
CA/8039/2021 IN FAST/25288/2020

VITHAL MARUTI MAHANWAR (DIED) THR LRS. BALU VITHAL
MAHANWAR AND OTHERS

VERSUS

THE M.K.V.D.C., THROUGH, EXECUTIVE ENGINEER, OSMANABAD
MEDIUM PROJECT OSMANABAD AND OTHERS

...

Advocate for Applicants : Mr. Vivekanand B. Deshmukh

Advocate for Respondents : Mr. A.M. Gaikwad.

CORAM : S.G. CHAPALGAONKAR, J.

DATE : 18TH AUGUST, 2023

ORDER :-

By this application, the applicants seek permission to withdraw the amount deposited by the Acquiring Body in terms of the award passed by the Reference Court.

2. Learned counsel for the applicants submits that their lands have been acquired for public purpose. However, they are yet to receive the compensation. He would further submit that the Reference Court, after considering the comparative sale instances and other material on record has passed the award for enhanced compensation. Therefore, he seeks permission to withdraw the compensation.

3. Learned counsel for the Acquiring Body opposes the prayer stating that exponential enhancement has been granted. The compensation amount has been enhanced from Rs. 450 per Are to 2891

per Are, without any basis. He would further submit that the interest component is also awarded contrary to the judgment of the Full Bench of this Court in the case of ***State of Maharashtra Vs. Kailas Shiva Rangari, reported in 2016 (4) All M.R. 513.***

4. Having considered the submissions advanced and after going through the reasons stated in the impugned judgment, a case is made out to permit partial withdrawal. Hence, the following order :-

: O R D E R :-

- I] The application is partly allowed.
- II] The applicants are permitted to withdraw 50% of compensation deposited by the Acquiring Body alongwith interest accrued thereon subject to furnishing the usual undertaking to the satisfactions of the Registrar (Judicial) of this court.
- III] The applicants are further permitted to withdraw the balance 50% amount subject to furnishing solvent surety/security to the satisfactions of the Registrar (Judicial) of this court.
- IV] Civil application is disposed of.

[S.G. CHAPALGAONKAR]
JUDGE

grt/-