

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD
CIVIL APPLICATION NO.8674 OF 2023
IN FA/2072/2022**

**KALYANRAO VYANKATRAO JADHAV
VERSUS
THE EXECUTIVE ENGINEER IRRIGATION PROJECT
STRENGTHENING DIVISION OMERGA TQ OMERGA DIST
OSMANABAD**

**AND
CIVIL APPLICATION NO.8676 OF 2023
IN FA/2073/2022**

**RAOSAHEB VYANKATRAO JADHAV DIED THROUGH HIS
LEGAL REPRESENTATIVE
VERSUS
THE M.K.V.D.C., THR THE EX. ENGINEER, IRRI, PROJ,
STRENGTHENING AND ORS.**

**AND
CIVIL APPLICATION NO.8677 OF 2023
IN FA/2071/2022**

**SATISH MANOHAR HANGARGEKAR
VERSUS
THE EXECUTIVE ENGINEER IRRIGATION PROJECT
STRENGTHENING DIVISION OMERGA TQ OMERGA DIST
OSMANABAD**

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Mr. Ramesh Vitthal Naiknavare, Advocate for the Applicants.
Mr. P. M. Kulkarni, AGP for Respondents-State.
Mr. Mukul S. Kulkarni, Advocate for Respondent No.1.

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**CORAM : S. G. CHAPALGAONKAR, J.
DATE : 14th JULY, 2023.**

PER COURT:-

1. By these applications, the applicants seek withdrawal of the amount deposited by the acquiring body/appellant in pursuance of the Award passed by the Reference Court.

2. It is the contention of the applicants that their lands have been acquired for construction of Hangarga Storage Tank under Award dated 10.08.2007.

3. The lands were high fertile and irrigated lands. The applicants have lost their source of income and waiting for receiving just compensation. Therefore, it is urged that entire amount may be permitted to be withdrawn.

4. Mr. Kulkarni, learned AGP appearing for the acquiring body submits that almost 12 times enhancement has been granted by the Reference Court. He would further submit that interest is also granted from the date of possession, which is contrary to the legal position appearing from the judgment in the case of *State of Maharashtra, through Sub-Divisional Officer & Special Land Acquisition Officer, Darwha Vs. Kailash Shiva Rangari*, reported in *2016 (3) Mh. L.J. 457*.

5. Having considered the submissions advanced, it can be noticed that the Reference Court has taken into account the entries regarding the crops like sugarcane. Similarly, the Award passed in LAR No.949/2010, which is from the same village as well as the adjacent to the acquired lands. It is, therefore, evident that the Reference Court has supplied adequate reasons while fixing the market value of the lands. In that view of the matters, *prima facie* case is made out to permit withdrawal of the amount, however, subject to certain conditions. Hence, the following order:-

ORDER

a. Civil Applications are allowed.

b. The applicants are permitted to withdraw 50% of the amount deposited by the acquiring body/appellant subject to furnishing of usual undertaking to the satisfaction of the Registrar (Judicial) of this court.

c. The applicants are also permitted to withdraw additional 25% of the amount on furnishing solvent surety/security to the satisfaction of the Registrar (Judicial) of this Court.

d. The balance amount be invested in Fixed Deposit with the Nationalized Bank with renewal clause.

6. Civil Applications are disposed of.

(S. G. CHAPALGAONKAR)
JUDGE