

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD
CIVIL APPLICATION NO.8682 OF 2023
IN FAST/34732/2022**

DATTATYRAY SO PANDHARINATH JAGTAP AND ANR
VERSUS
THE EXECUTIVE ENGINEER MINOR IRRIGATION DIVISION
NO.1 AURANGABAD AND ANR

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Mr. Nikhil P. Ghanwat, Advocate for the Applicants.

Mr. H. P. Jadhav, Advocate for Respondent No.1.

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CORAM : S. G. CHAPALGAONKAR, J.

DATE : 14th JULY, 2023.

PER COURT:-

1. By this application, the applicants seek withdrawal of the amount deposited by the acquiring body in pursuance of the Award passed by the Reference Court.

2. The applicants contend that their lands have been acquired for Nandur-Madmeshwar Canal. The lands were of fertile quality and claimants are deprived of the reasonable compensation.

3. The learned Advocate appearing for the applicants invites attention of this Court to the findings recorded by the Reference Court in paragraph nos.7 and 8, wherein it is noticed that for similar acquisition, the rate of Rs.4921/- per R was fixed by the Courts. On the basis of the said judgment, the Reference Court has passed the present Award.

4. Mr. Jadhav, learned Advocate appearing for the respondents opposes the prayer for withdrawal of the amount on the ground that the enhancement of more than 5 times has been granted by the Reference Court, although the comparative sell instances were not available.

5. Considering the submissions advanced and the reasons as stated in the judgment under challenge, it would be appropriate to permit the applicants to withdraw the amount subject to the following conditions:-

ORDER

- a. Civil Application is allowed.
 - b. The applicants are permitted to withdraw 50% of the amount deposited by the acquiring body subject to furnishing usual undertaking to the satisfaction of the Registrar (Judicial) of this Court.
 - c. The applicants are further allowed to withdraw 25% of the amount subject to furnishing solvent surety/security to the satisfaction of the Registrar (Judicial) of this Court.
6. Civil Application is disposed of.

(S. G. CHAPALGAONKAR)
JUDGE