

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

**CIVIL APPLICATION NO. 10337 OF 2023
IN
FIRST APPEAL (ST) NO. 21445 OF 2020**

**CHANDRASEN BABARAO KARANDE
VERSUS
THE EX. ENGINEER, IRRIGATION PROJECT STRENGTHENING DIV.
OMERGA AND ORS.**

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**CIVIL APPLICATION NO.10338 OF 2023
IN
FIRST APPEAL (ST) NO. 23704 OF 2020**

**PRABHAKAR SHANKARRAO MAKANE AND ANR.
VERSUS
THE EX. ENGINEER, IRRIGATION PROJECT STRENGTHENING DIV.
OMERGA AND ORS.**

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**CIVIL APPLICATION NO.10339 OF 2023
IN
FIRST APPEAL (ST) NO.21433 OF 2020**

**JITENDRA VINOD MANE
VERSUS
THE EX. ENGINEER, IRRIGATION PROJECT STRENGTHENING DIV.
OMERGA AND ORS.**

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Advocate for Applicant/s: Mr. G. K. Sontakke
AGPs for Respondent Nos.1 and 2/State: Mr. S. S. Dande, Mr. P. M.
Kulkarni
Advocate for Respondent No.3: Ms. S. D. Shelke

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CORAM : S. G. CHAPALGAONKAR, J.

DATE : 19.08.2023

PER COURT :

1. By these application/s, the applicants seek to withdraw the amount deposited by the acquiring body in pursuance of the award passed by the reference court.
2. The learned Advocate appearing for the applicant/s submits that in number of other first appeals arising out of the same acquisition, this Court permitted to withdraw 50% amount on undertaking and another 25% amount on solvent surety / security. He urge to adopt the same course in the present matters.
3. The learned Advocate appearing for the respondent / acquiring body opposes the contention. It is pointed out that the compensation is awarded towards structure based on the valuation report, which has been doubted by the reference court itself. It is further urged that the valuation report is prepared behind the back of the acquiring body. In that view of the matter, no significance can be attached to the valuation report. It is further pointed out that component under Section 23(1A) of the Land Acquisition Act is erroneously granted. It is urged that all the matters can be taken up for final disposal at admission stage.
4. Having considered the submissions advanced and considering the earlier order passed by this Court, particularly, Civil Application No.5814/2022 along with other matters dated 20/04/2022, it would be appropriate, at this stage, to permit the applicant/s to withdraw 50% of the amount deposited by the acquiring body with liberty to move this Court for withdrawal of the amount if the

appeals are not heard and decided within the reasonable time.
Hence, this Court proceeds to pass the following order:

ORDER

- a) The civil applications partly are allowed.
- b) The applicants are permitted to withdraw 50% of the compensation amount deposited by the acquiring body along with accrued interest thereon, subject to usual undertaking to be furnished to the satisfaction of the Registrar [Judicial] of this Court.
- c) The balance of amount be kept in fixed deposit in any Nationalized Bank initially for the period of one year with renewal clause.
- d) The applicants shall be at liberty to move this Court for further withdrawal if the appeals could not be heard or decided within a period of two years.
- e) The civil applications are disposed of.

[S. G. CHAPALGAONKAR]
JUDGE