

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

942 CIVIL APPLICATION NO.11815 OF 2023
IN FAST/2386/2021

ANANDA TUKARAM KANADE
VERSUS
THE EX. ENGINEER, IRRI.PROJECT STRENGTHENING DIV.
OMERAGA, OSMANABAD & OTHERS

...

Advocate for the applicant : Mr.R.V.Naiknavare
AGP for Respondent-State : Mr.N.T.Bhagat
Advocate for Respondent no.1 : Mr.M.S.Kulkarni

...

WITH
CIVIL APPLICATION NO.1398 OF 2021
IN FAST/2386/2021

WITH
FIRST APPEAL STAMP NO.2386 OF 2021

THE EX.ENGINEER, IRRI.PROJECT STRENGTHENING DIV.
OMERAGA
VERSUS
ANANDA TUKARAM KANADE

...

Advocate for the applicant : Mr.M.S.Kulkarni
AGP for the respondent-State : Mr.N.T.Bhagat
Advocate for the respondent no.1 : Mr.R.V.Naiknaware

...

WITH
CIVIL APPLICATION NO.11816 OF 2023
IN FIRST APPEAL STAMP NO.2536 OF 2021

SHIVAJI MAHADEV KANADE
VERSUS
THE EX. ENGINEER, IRRI. PROJECT STRENGTHENING
DIV. OMERAGA, OSMANABAD AND ORS

...
Advocate for Applicant : Mr.R.V.Naiknavare
AGP for Respondent-State : Mr.N.T.Bhagat
Advocate for Respondent no.1 : Mr.M.S.Kulkarni
...

WITH
CIVIL APPLICATION NO.1396 OF 2021
IN FAST/2536/2021
WITH
FIRST APPEAL STAMP NO.2536 OF 2021

THE EX. ENGINEER, IRRI. PROJECT STRENGTHENING
DIV. OMERAGA
VERSUS
SHIVAJI MAHADEV KANADE AND OTHERS

...
Advocate for the applicant : Mr.M.S.Kulkarni
AGP for the respondent-State : Mr.N.T.Bhagat
Advocate for the respondent no.1 : Mr.R.V.Naiknaware
...

CORAM : ARUN R. PEDNEKER, J.
DATE : 27.09.2023

P.C. :

A] ORDER IN CIVIL APPLICATIONS FOR
WITHDRAWAL OF AMOUNT

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 Therefore, it is urged that entire amount may be permitted to be withdrawn.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.Virdhe, 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, Darwaha 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 / 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.

B] ORDER IN CIVIL APPLICATIONS FOR DELAY

1] The present Civil Applications are filed to condone the delay of 1711 days in filing the First Appeals.

2] For the reasons stated in the Civil Applications, the same are allowed. Delay of 1711 days is condoned respectively. Appeals be registered. Civil Applications are disposed of accordingly.

C] ORDER IN FIRST APPEALS

1] First Appeals are **admitted**.

2] On admission, the learned AGP waives notice for the respondent nos.2 and 3. Mr.R.V.Naiknaware, learned counsel waives notice for the respondent no.1.

3] Call R. & P.

4] Office objections, if any, to be removed within two weeks.

[ARUN R. PEDNEKER]
JUDGE

DDC