

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

939 CIVIL APPLICATION NO.11590 OF 2023
IN FIRST APPEAL NO.2264 OF 2022

CHANDAR S/O.TUKARAM KANADE (DIED) THROUGH
L.Rs.SACHIN CHANDRAKANT @ CHANDAR KANADE
VERSUS
THE EXECUTIVE ENGINEER, IRRIGATION PROJECT
STRENGTHENING DIVISION, OMERGA, OSMANABAD &
OTHERS

...
Advocate for the applicant : Mr.R.V.Naiknavare
AGP for Respondent-State : Mr.B.V.Virdhe
Advocate for Respondent no.1 : Mr.M.S.Kulkarni
...

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

P.C. :

1] By this application, the applicant seeks 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 applicant that his land has been acquired for construction of Hangarga Storage Tank under Award dated 10.08.2007.

3] The lands were high fertile and irrigated lands.

The applicant has lost his 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 Therefore, it is urged that entire amount may be permitted to be withdrawn.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, 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 Application is allowed.
 - b. The applicant is 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 applicant is 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 Application is disposed of.

[ARUN R. PEDNEKER]
JUDGE

DDC