

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

911 CIVIL APPLICATION NO.1488 OF 2023
IN FA/3/2019 WITH CA/1490/2023 IN FA/5/2019

RAMESH BHARAT BURLE
VERSUS
THE EX. ENGINEER, MINOR IRRIGATION DIV. OSMANABAD AND ORS

Mr.K.P. Rodge, Advocate for the applicant.
Mr.S.C. Arora, Advocate for respondent No.1.
Mr.S.S. Dande, AGP for the respondent/State.
Mr.S.N. Pahune Patil, Advocate for respondent No.3.

CORAM : KISHORE C. SANT, J.
DATED : 09.11.2023

PC :-

01. These Civil Applications are filed by Ramesh Bharat Burle – brother of respondent No.3 Ramhari, in whose name the land admeasuring 1 H 14 R from village Sumbha, Tq. & Dist. Osmanabad was standing at the time of acquisition of land. In both the applications it is case of Ramesh that though the lands were standing in the name of respondent No.3 in the respective applications, Ramesh is entitled to receive amount of compensation, in view of compromise decree passed in a suit for partition bearing RCS No.931 of 2018 by the learned Civil Judge, Junior division, Osmanabd. By way of the compromise, it was decided that Ramesh would be entitled to get compensation towards acquisition of the land to the extent of 1 H 31 R.

02. The learned Advocate for respondent No.3 in CA No.1488 of 2023 and for respondent No.3 to 6 in CA No.1490 of 2023, accepts the position and gives no objection for withdrawal of the amount.

03. Learned Advocate Mr. Arora for the acquiring body, however, submits that the acquiring body has to pay compensation to a person who is entitled to receive the compensation as per the record. On record it is respondent No.3 in CA No.1488 of 2023 and respondent Nos.3 to 6 in CA No.1490 of 2023, whose names appear on record. He, therefore, submits that in case there is dispute between the brothers in future, the appellant will not be liable to any claim, if occasion arises. He also objects withdrawal of the said amount stating that there are good chances of success in appeals. In case the appeals are allowed, it would be difficult to recover the amount of compensation.

04. Considering all these aspects, this Court finds that since the amount is already deposited in this Court and is lying unutilized, it would be in the interest of justice to allow the applicant to withdraw the amount to the extent of 75% of the deposited amount along with interest accrued thereon, if any. Hence, the following

order :-

ORDER

(i) The Civil Applications are partly allowed.

(ii) The applicant shall be entitled to withdraw 50% of the total amount of compensation deposited in this Court in respective appeals on giving usual undertaking to this Court and 25% amount shall be allowed to be withdrawn on furnishing solvent surety/security to the satisfaction of the Registrar (Judicial) of this Court. The amounts shall be allowed to be withdrawn with accrued interest, if any, thereon. Remaining 25% amount shall be deposited in fixed deposit in any nationalised bank with periodical renewal till disposal of the appeal.

[KISHORE C. SANT, J.]