

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CIVIL APPLICATION NO.11783 OF 2023
IN
FIRST APPEAL NO.497 OF 2023

1. Ramnath Barku Tambe
Age: 60 years, Occu.: Agri.,
2. Kachru Barku Tambe
Age: 61 years, Occu.: Agri. & Business

Both R/o. Kanchanwadi,
Taluka and District Aurangabad.

.. Applicants

Versus

1. The State of Maharashtra
Through SLAO Special Unit,
Aurangabad.
2. CIDCO, Aurangabad.

.. Respondents

...

Mr. Abhijit Babanrao Kale, Advocate for the applicants.

Mr. S. D. Ghayal, AGP for the respondent No.1 – State.

Mr. Shambhuraje V. Deshmukh, Advocate for respondent No.2.

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**CORAM : SMT. VIBHA KANKANWADI AND
ABHAY S. WAGHWASE, JJ.**

RESERVED ON : 20th October, 2023

PRONOUNCED ON : 6th November, 2023

ORDER [Per Smt. Vibha Kankanwadi, J.] :-

. Present application has been filed by the original claimants/respondents in first appeal for withdrawal of the amount deposited by the appellant.

2. Heard learned Advocate Mr. Abhijit Babanrao Kale for the applicants, learned AGP Mr. S. D. Ghayal for respondent No.1 – State and learned Advocate Mr. Shambhuraje V. Deshmukh for respondent No.2.

3. The applicants are the original claimants who had filed Land Acquisition Reference No.192 of 2013. The learned Reference Court i.e. 10th Joint Civil Judge Senior Division, Aurangabad decided the reference on 13.06.2022. The appeal is yet to be admitted, however, the application for condonation of delay in filing first appeal has been allowed and by order dated 14.12.2022, the stay to the impugned judgment and award has been granted subject to deposit of 75% of the amount under the award along with interest accrued thereon till date. The time was then got extended. It appears that when the matter was not on board on 19.08.2023, the amount was deposited under the orders of this Court. Thus, the position as on today stands is that amount of Rs.6,53,72,635/- has been deposited in the present matter.

4. Learned Advocate for the applicants prayed for allowing the entire amount to be withdrawn, but learned Advocate for the respondents – appellants submitted that the learned Reference Court has granted exorbitant compensation. The criteria that is used is also not proper. The Special Land Acquisition Officer had awarded compensation at the rate of Rs.7340/- per R, whereas the Reference Court enhanced it to Rs.1,64,230/-

per R and, therefore, the entire amount should not be allowed to be withdrawn.

5. Apparently it appears that the enhancement is manifold than the amount awarded by the Special Land Acquisition Officer. Interest of the acquiring body is also required to be protected till the appeal is decided. Under the said circumstance, when as per the earlier order passed by this Court on 14.12.2022 only 75% amount under the award is directed to be deposited, it would be appropriate to direct the withdrawal of part of the amount by applicants. Hence, the following order :-

ORDER

I) The application stands partly allowed.

II) The applicants are allowed to withdraw amount of Rs.4,00,00,000/- equally from the amount that is deposited in the matter.

[ABHAY S. WAGHWASE]
JUDGE

[SMT. VIBHA KANKANWADI]
JUDGE

scm