

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

20 CIVIL APPLICATION NO.1166 OF 2023
IN FA/1383/2021

SHABBIR HAZI USMAN BAGWAN (DIED)
THROUGH LRS. SHAHAGIR SHABBIR BAGWAN AND OTHERS
VERSUS
THE COLLECTOR, JALGAON AND OTHERS

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Mr. A.B. Kale, Advocate for applicants
Mr. A.M. Phule, AGP for respondent Nos.1 and 4
Mr. A.D. Pawar, Advocate for respondent Nos.2 and 3

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CORAM : SMT. VIBHA KANKANWADI AND
Y.G. KHOBRAGADE, JJ.

DATE : 03rd APRIL, 2023

ORDER :

1 We have heard learned Advocate Mr. A.B. Kale for applicants – original claimants and learned AGP Mr. A.M. Phule for respondent Nos.1 and 4 as well as learned Advocate Mr. A.D. Pawar for acquiring body. We have gone through the order passed by this Court, especially on 22.09.2021 and 17.12.2021. By order dated 22.09.2021 it was noted that earlier a conditional order was passed on 18.08.2021 on the stay application. The

appellants were directed to deposit only 25% of the total amount under the Award passed by the Reference Court within a period of five weeks. However, it appears that the said amount was not deposited within the time fixed and, therefore, all the civil applications for extension of time and for stay were rejected and consequently the interim relief that was granted earlier stood vacated, however, it appears that once again various applications were filed in various appeals and after hearing the parties this Court passed order dated 17.12.2021. At that time the acquiring body deposited amount with this Court by Account Payee cheque dated 17.11.2021. It was told that it was the 25% amount as calculated by the acquiring body. No doubt, on behalf of the claimants it was stated that the said amount does not come to 25%, but then demanded that at least 50% of the decretal amount should be directed to be deposited. This Court observed that the original claimants can always approach this Court for modification of the order, but then the acquiring body was allowed to deposit the amount and the claimants were allowed to withdraw the same by tendering affidavit-cum-undertaking. Now, the present application has been filed by the original claimants giving directions to the appellants to deposit 75% of the remaining amount.

on behalf of the acquiring body that one of the claimants from the sister appeal has approached Hon'ble Supreme Court challenging the order passed by this Court on 17.12.2021 and that proceeding is pending. We would like to say that, that will not curtail the present claimants in filing this application. Here, the appeal is admitted and it is pending for the final hearing. It will not be out of place to mention here that there are in all 80 appeals including this, arising out of the same project. It has been told that in all the matters the notices are served, but in some matters the original claimants are no more. Therefore, it is doubtful as to whether all the matters are ripe for final hearing or not. Under such circumstance, when it comes to deposit of the amount of compensation, it would be in the interest of justice to direct the acquiring body i.e. the respondent Nos.2 and 3 to deposit amount of compensation to the extent of 25% of the decretal amount more in the present case. Such amount be deposited within a period of 12 weeks from today. With these directions this application stands disposed of.

(Y.G. Khobragade, J.)

(Smt. Vibha Kankanwadi, J.)