



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

925 CIVIL APPLICATION NO. 1580 OF 2024
IN FA/2789/2016

SHANKAR UKHARDU PARDESHI AND ORS
VERSUS
RAJU RAMLAL PARDESHI AND ANR

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Mr. Sabnis Ameya N., Advocate for Applicants
Mr. S. V. Hange, AGP for Respondents State
Mr. A. B. Kale, Advocate for Respondent No.1

CORAM : Y. G. KHOBRADE, J.
DATE : 12th April, 2024

ORDER:

1. Heard Mr. Sabnis, the learned Advocate for the applicants and Mr. Kale, the learned counsel appearing for respondent no.1 and the learned AGP for Respondent No. 2.

2. By the present application, the applicants prayed for permission to withdraw the amount deposited by them to the tune of Rs.1,91,957/- in LAR No. 860 of 2005 before the Reference Court. The learned counsel appearing for the applicants submits that the land bearing Gat No. 149/3 and Gat No.148 situated at Shendurni Tq. Jamner Dist. Jalgaon has been acquired which culminated into passing of award on 25.02.1999. However, subsequently, Respondent No.1 raised dispute about the ownership of properties bearing Gat No. 148. Therefore, on 12.12.2012, the reference Court passed order below Exh.1 in LAR No. 860 of 2005 and directed the present applicants to

deposit amount of Rs.1,91,957/-. Accordingly, the applicants deposited the said amount on 18.03.2013 before the Reference Court under Receipt No. 862.

3. The learned counsel appearing for the applicants submits that Respondent No.1 had filed an application under section 30 of the Land Acquisition Act, 1894 and raised dispute about the apportionment as well as title and ownership of Gat No. 148. Thereafter, on 30.05.2016, the Reference Court decided the said objection on merit holding that the applicants Shankar Ukardu Pardeshi and Shivilal Ukardu Pardeshi are owners of Gat No. 148 with timber standing thereon and they are entitled to receive the compensation for the acquired land. However, the respondent No.1 Raju Ramlal Pardeshi is not entitled to receive any compensation in respect of trees standing in Gat No. 148.

4. The Respondent No.1 has filed an First Appeal No. 2789 of 2016 challenging the judgment and order dated 30.05.2016 passed by the learned Reference Court under Section 30 of the Land Acquisition Act. The issue about ownership of trees on land Gat No. 148 is subjudice before this Court. However, the present applicants/original Respondent Nos. 2 to 4 in the appeal are being held entitled to receive the said compensation.

5. In view of the above, considering their need, the present applicants/original Respondent Nos. to 2 to 4, are permitted to

withdraw the amount of Rs. 1,00,000/- (Rupees One lakh) with accrued interest, on furnishing solvent surety to the satisfaction of the Registrar (Judicial) of this Court with an undertaking that in case the present respondent No.1 succeeds in the appeal, in that event the present applicants would redeposit the said amount before the reference Court within a period of four weeks therefrom.

6. Rest of the amount be kept in fixed deposit in any Nationalized Bank.

7. It is made clear that in case the applicant fails to deposit the said amount without stipulated period, respondent No.1 will have liberty under section 12 of the Contempt of Courts Act. It is further made clear that merely granting permission to withdraw the amount will not affect the merit of the first appeal.

(Y. G. KHOBRADE, J.)

JPChavan