



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

**CIVIL APPLICATION NO. 13381 OF 2022
IN FAST/10139/2020**

Sunil Satyanarayan Sarada And Ors .. Applicants

VERSUS

The Administrator Cidco, Aurangabad And Ors ..Respondents

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Advocate for Applicants : Mr. Mukul S. Kulkarni

AGP for Respondent No.2 : Mr. A. S. Shinde

Advocate for Respondent No.1 : Mr. S. V. Deshmukh

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CORAM : S. G. MEHARE, J.

DATE : 16.02.2024

PER COURT :

1. Heard the learned counsel for the applicants and the learned counsel for respondent/acquiring body.

2. 60% of the compensation amount of Rs. 2,77,51,030/- (Rupees two crores seventy seven lakhs fifty one thousand and thirty only) has been deposited.

3. The learned counsel for the applicants submits that there were five partners who had purchased the acquired land. However, respondent Nos. 3 to 5 were served but they did not appear.

4. The learned counsel for the applicants submits that in the reference petition No. L.A.R. No. 289 of 2007 the same parties had agreed for their share. However, respondent Nos. 4 to 6 are not supporting for withdrawal of amount. He would submit that applicant Nos. 1 and 2 have their independent share and applicant Nos. 3 and 4 have the joint share. He would submit that the applicant Nos. 1 and 2 are entitled to 22.5% share as per their earlier agreement. He would submit that the applicant Nos. 1 and 2 may be allowed to withdraw 22.5 % share each and applicant Nos. 3 and 4 jointly.

5. The learned counsel for the Acquiring Body submits that there were ten claimants in all. Therefore, apportionment at this juncture is impossible. In such circumstances it would not be appropriate to allow the application.

6. Perused the papers. In a reference petition, the parties including respondent Nos. 3 to 5 had agreed for the shares. However, some of the partners are not coming forward for withdrawal of amount. There may be internal dispute. Considering the facts and circumstances of the case, it would be

unjustifiable to refuse the applicants from withdrawing the amount for which they are entitled. However, some conditions should be imposed to protect the interest of all including the Acquiring Body. Hence, the following order :-

ORDER

- (i) The application is partly allowed.
- (ii) The applicant Nos. 1 and 2 are allowed to withdraw 22.5% share each and applicant Nos. 3 and 4 to withdraw 22.5% share jointly out of the amount deposited with this Court along with accrued interest, on furnishing bank guarantee to the extent of half of the amount they are allowed to withdraw and remaining amount be released to them on furnishing undertaking that they would refund the said amount if the judgment and award is reversed or any objection has been raised by the co-partners along with interest.

(S. G. MEHARE)
JUDGE

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