



IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
BENCH AT AURANGABAD.

**904 CIVIL APPLICATION NO. 10080 OF 2024
IN FAST/24219/2020**

PRABHAKAR SHANKAR JADHAV AND ORS
VERSUS
THE EX. ENGINEER, (PROJECT STRENGTHENING) DIV. OMERGA AND
ANR

...
Advocate for Applicant : Mr. Vivekanand B. Deshmukh.
Advocate for Respondent No.1 : Mr. Rhul A. Tambe.
AGP for Respondent/State : Mr. K. B. Jadhavar.

...
AND
**CIVIL APPLICATION NO. 214 OF 2021
IN FAST/24219/2020**

EX. ENGINEER, IRRIGATION PROJECT MAJBUTIKARAN PROJECT
OMERGA UNDER M.K.K.V.D.C. PUNE AND ORS
VERSUS
PRABHAKAR SHANKAR JADHAV AND ORS

...
Advocate for Applicant : Mr. Rahul A. Tambe.
AGP for Respondent/State : Mr. K. B. Jadhavar.
Advocate for Respondent Nos.1 to 3 : Mr. Vivekanand B. Deshmukh.

...
AND
**CIVIL APPLICATION NO. 215 OF 2021
IN FAST/24219/2020**

EX. ENGINEER, IRRIGATION PROJECT MAJBUTIKARAN PROJECT
OMERGA UNDER M.K.K.V.D.C. PUNE AND ORS
VERSUS
PRABHAKAR SHANKAR JADHAV AND ORS

...
Advocate for Applicant : Mr. Rahul A. Tambe.
AGP for Respondent/State : Mr. K. B. Jadhavar.
Advocate for Respondent Nos.1 & 3 : Mr. Vivekanand B. Deshmukh.

...
AND
**CIVIL APPLICATION NO. 10079 OF 2024
IN FAST/24219/2020**

PRABHAKAR SHANKAR JADHAV AND ORS

VERSUS

THE EX. ENGINEER, (PROJECT STRENGTHENING) DIV. OMERGA AND
ANR

...

Advocate for Applicant : Mr. Vivekanand B. Deshmukh.

AGP for Respondent/State : Mr. K. B. Jadhavar.

Advocate for Respondent No.2 : Mr. Rhul A. Tambe.

...

AND

**CIVIL APPLICATION NO. 595 OF 2022
IN FAST/24219/2020**

THE EX. ENGINEER, (PROJECT STRENGTHENING) DIV. OMERGA AND
ANR

VERSUS

PRABHAKAR SHANKAR JADHAV AND ORS

...

Advocate for Applicant : Mr. Rahul A. Tambe.

AGP for Respondent/State : Mr. K. B. Jadhavar.

Advocate for Respondent Nos.1 & 3 : Mr. Vivekanand B. Deshmukh.

...

CORAM : KISHORE C. SANT, J.

DATE : 17th October, 2024.

P.C.:

. Heard the learned counsel for the parties.

Application for condonation of delay:

2 For the reasons stated in the applications, the delay stands condoned. The application stands allowed. Appeal be registered.

Stay application:

3 The appellant / acquiring body has already deposited the entire

amount as per the impugned judgment and award in this Court. In view of the same, there shall be stay to the impugned judgment and award till disposal of the appeals. Civil application stands disposed of.

Appeal:

4 Heard.

5 **Admit.**

6 Issue notice to the respondents. Mr. V. B. Deshmukh, learned counsel waives notice on behalf of the respondents/claimants on admission.

CIVIL APPLICATION NO. 10079 OF 2024

7 This application is for bringing on record the legal heirs of deceased Sudhakar Jadhav. While filing this application, there is delay of 820 days in filing the application. For the reasons stated in the application, the delay stands condoned. Civil application is allowed. Necessary amendment be carried out in appeal memo and other applications within four weeks from today.

The application for withdrawal of amount:

8 The learned counsel for applicants relies on the order dated 19th September, 2024 passed by this Court in Civil Application No.9994 of 2024. The application is strongly opposed by the learned counsel for appellants. He submits that in the present case though there is no

material to show that the land of the respondents is Bagayat land, the Reference Court has granted the rate considering the land to be Bagayat land. There is no material on record to show that there is irrigation facility available in the land. There is no well situated and still the land is considered to be Bagayat land. He further submits that though the reference was filed in the year 2007, still the Collector made a reference in the year 2015. The acquiring body is unnecessarily put to heavy burden of interest under Section 28. The interest is granted from Section 4 notification i.e. also causing hardship to the acquiring body.

9 Considering the above, this Court is inclined to allow the application partly. Hence, the following order:-

ORDER

- I. The civil application for withdrawal of amount is partly allowed.
- II. The applicants are permitted to withdraw 50% of the amount deposited in this Court alongwith accrued interest on furnishing usual undertaking. Further 25% of the amount with accrued interest is permitted to be withdrawn on furnishing solvent surety/security to the satisfaction of the learned Registrar (Judicial) of this

Court. The remaining amount be kept in fixed deposit in any nationalized bank till disposal of the appeal.

- III. With this finding, nothing survives in Civil Application No.595 of 2022 as even if the land is held to be Jirayat land, the applicants/claimants would be entitled to receive the compensation at the rate of 50% as awarded by the Reference Court in the reference.

[KISHORE C. SANT, J.]

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