



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

**CIVIL APPLICATION NO. 507 OF 2024
IN FAST/4427/2021**

Hanumanta Dharmanna Jamadar (died) Thr Lrs Rajshri And Ors
....Applicant

VERSUS

The Ex. Engineer, Medium Irri. Pro. Thr M.k.v.d.c, Osmanabad And Ors
.....Respondent

.....

Advocate for Applicant : Mr. Dhananjay A Naik

AGP for Respondent Nos. 2 and 3 : Mrs. R. R. Tandale

Advocate for respondent No.1 : Mr. S. G. Bhalerao

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CORAM : S. G. MEHARE, J.

DATE : 19.01.2024

PER COURT :

1. Heard the learned counsel for the applicants and the learned counsel for the acquiring body.
2. The learned counsel for the acquiring body has raised the objection that there are various pronouncements of the Hon'ble Supreme Court that a separate compensation for trees and irrigated land should not be awarded. The interest has also not been correctly awarded. The reference Court has enhanced the award more than 25 times of the assessment done by the Land Acquisition Officer. He would submit that in the circumstances the applicants are not entitled

to withdraw the amount. He admits that as per the order of this Court 50% of the award amount has been deposited with accrued interest.

3. The learned counsel for the applicant would submit that the award of the reference Court is legal correct and proper. The Land Acquisition Officer had not considered the various factors. He did not consider the nature and fertility of the land and other factors for determination of the compensation. Therefore, the applicants are entitled for withdraw of entire amount deposited.

4. Perused the impugned award. Admittedly, there is huge enhancement by the reference Court. *Prima facie* it appears that the acquired lands were irrigated with fruit and other trees. Calculation about the interest is always a matter of dispute. Whether the case laws pronounced by the Hon'ble Supreme Court are applicable to the case at hand is a matter of examination during the course of hearing on the merits.

5. However, considering the facts appropriate amount may be allowed to be withdrawn. Hence, the following order

ORDER

(i) The application is partly allowed.

- (ii) The applicants are entitled to withdraw 50% of the deposited amount with accrued proportionate interest, on the undertaking that they would deposit the money if the award is reversed.

(S. G. MEHARE)
JUDGE

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