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**`IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

**INTERIM APPLICATION NO.15369 OF 2023
IN
FIRST APPEAL NO.1780 OF 2009**

Shivaji Kachru Bhalerao & Anr. ..Applicants
Versus
The State of Maharashtra & Anr. ..Respondents

**WITH
INTERIM APPLICATION NO.15375 OF 2023
IN
FIRST APPEAL NO.1786 OF 2009**

Sindhubai Ashokrao Bhalerao & Anr. ..Applicants
Versus
The State of Maharashtra & Anr. ..Respondents

**WITH
INTERIM APPLICATION NO.15370 OF 2023
IN
FIRST APPEAL NO.1782 OF 2009**

Bhiku Bapu Thube
Since deceased through legal heirs
Rajaram Bhika Thube & Ors. ..Applicants
Versus
The State of Maharashtra & Anr. ..Respondents

**WITH
INTERIM APPLICATION NO.15371 OF 2023
IN
FIRST APPEAL NO.1783 OF 2009**

Ramesh Rajaram Bhalerao ..Applicants
Versus
The State of Maharashtra & Anr. ..Respondents

**WITH
INTERIM APPLICATION NO.15373 OF 2023
IN
FIRST APPEAL NO.1784 OF 2009**

Ashok Madhavrao Bhalerao & Ors.	..Applicants
Versus	
The State of Maharashtra & Ors.	..Respondents

**WITH
INTERIM APPLICATION NO.15368 OF 2023
IN
FIRST APPEAL NO.1779 OF 2009**

Rajaram Vitthal Bhalerao Since deceased through legal heirs Anusaya Rajaram Bhalerao & Ors.	..Applicants
Versus	
The State of Maharashtra & Anr.	..Respondents

**WITH
INTERIM APPLICATION NO.15374 OF 2023
IN
FIRST APPEAL NO.1785 OF 2009**

Vasantrao Kaniram Sonawane	..Applicant
Versus	
The State of Maharashtra & Anr.	..Respondents

**WITH
INTERIM APPLICATION NO.15366 OF 2023
IN
FIRST APPEAL NO.1781 OF 2009**

Vinayak Waman Bhalerao	..Applicant
Versus	
The State of Maharashtra & Anr.	..Respondents

**WITH
INTERIM APPLICATION NO.15376 OF 2023
IN
FIRST APPEAL NO.1787 OF 2009**

Ramesh Yeshwant Bhalerao	..Applicant
Versus	
The State of Maharashtra & Anr.	..Respondents

**WITH
INTERIM APPLICATION STAMP NO.34954 OF 2023
IN
FIRST APPEAL NO.1787 OF 2009**

Shivaji Kachru Bhalerao & Anr.	..Applicants
Versus	
The State of Maharashtra & Ors.	..Respondents

Mr. P. N. Joshi a/w Rukmini Khairnar, for the Applicants.
Mr. A. R. Patil, AGP for the Respondent/State.

CORAM : KISHORE C. SANT, J.

DATE : 28th FEBRUARY, 2024

PC.

1. Heard.

2. All these Applications are for seeking withdrawal of the amount of compensation deposited by the Appellant/acquiring body in Executing Court/Reference Court and subject to which the stay is granted. Applicants are the original claimants whose lands are acquired by the Appellant for Tisgaon Dam, Nashik Division,

Nashik. Learned SLAO has granted compensation at the rate of Rs.50,000/- per Acre to Rs.1,98,950/- per Acre according to the quality and market value of the land.

3. Feeling that the compensation is inadequate, the claimants filed reference under Section 18 of the Land Acquisition Act. Learned Reference Court increased the amount of compensation at the rate of Rs.4,00,000/- per hectare in case of Jirayat Land, so far as Bagayat Land is concerned, the rate is enhanced is Rs.8,00,000/- per hectare. Challenging these orders, the Appellant has now approached this Court. This Court has already granted stay subject to condition of depositing the entire amount of compensation as enhanced by the Reference Court.

4. The claimants have therefore filed these Applications seeking withdrawal of the amount. It is stated that the amount is lying in Executing Court/Reference Court. Though there is order of enhancement of compensation, the claimants are not in position to utilize the amount. A prayer is therefore made to allow the claimants/Applicants to withdraw the amount. It is submitted that the learned Reference Court has rightly increased the amount of compensation by looking into the evidence like sale instances in respect of the similar lands. It is further submitted that in some of the cases Appeals preferred by the Appellants are dismissed for want of prosecution and in such cases no steps are taken to restore the Appeals. A prayer is therefore made to allow the claimants to

withdraw the entire amount deposited in this Court.

5. Learned AGP vehemently opposes the Application submitting that the SLAO has rightly fixed the amount of compensation taking into consideration the market rate and other relevant factors. The Reference Court has enhanced the amount at exorbitant rate. If the entire amount is withdrawn, it would not be possible to recover the amount in case Appeals are allowed.

6. Considering the submissions, this Court finds that the amounts are deposited in respective Appeals. Applicants have relied upon various orders passed by this Court which are annexed to the Applications, wherein this Court has allowed to withdraw the amounts deposited in this Court on certain conditions and in some cases only on directing to furnish an undertaking. Applicants have relied on the order dated 27th April, 2023, wherein this Court has allowed the claimants to withdraw 50% of the amount without any condition and remaining 50% of the amount by furnishing security. The lands of the claimants are agricultural land and some of them have even lost the earning source and still they are deprived of the compensation at enhanced rate.

7. Considering all above factors, this Court pass the following order :-

- i) All the Applications stand allowed.

- ii) Applicants/claimants will be entitled to receive 50% of the amount of the deposit on giving an undertaking to Executing Court/Reference Court that in case Appeals are allowed, they shall redeposit the amount within twelve weeks from the date of judgment with accrued interest.
- iii) Remaining 50% of the shall be allowed to be withdrawn by giving security to the Satisfaction of the Executing Court/Reference Court.

8. All these Applications stand disposed of.

[KISHORE C. SANT, J.]

Corrected pursuant to speaking to minutes of order dated 7th March, 2024.