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8-WP-3459-2025

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

8 WRIT PETITION NO. 3459 OF 2025

Jagannath Bhaurao Kharat And Another

VERSUS

The State Of Maharashtra Through Collector And Others

...

Ms. Asha D. Rakh, Advocate for the Petitioners.

Mr. K. N. Lokhande, AGP for Respondent-State.

Mr. B. R. Survase, Advocate for Respondent.

CORAM : KISHORE C. SANT, J.

DATE : 8th APRIL 2025

PC :-

1. Heard the parties.
2. The grievance of the petitioners, in this petition, is that the Executing Court has rejected the application and consequently refused the petitioners to withdraw the amount of compensation which is already transferred to the Reference Court.
3. The reference filed by the petitioners, came to be allowed enhancing the amount of compensation. The respondent-acquiring body filed appeals in this Court. The said appeals came to be rejected by order

dated 26th September 2024. In the appeal, the petitioners had filed an application for withdrawal of the amount. This Court while deciding the appeal directed to transfer the amount to the Reference Court. After this order, the petitioners filed an application in the reference Court to allow to withdraw the amount of Rs.9,69,135/- which is transferred to the Reference Court. The acquiring body-respondent also stated that, there is no appeal now pending by the acquiring body. It is the case of the petitioner that inspite of this, the Reference Court has rejected the application only for the reason that the First Appeal No.2545 of 2024 for enhancement by the claimants-petitioners is pending.

4. This Court finds that the said reasoning is totally perverse. There is no case made out before the Reference Court that the appeal of the acquiring body is pending. The appeal is for enhancement of compensation and there is no question of reduction of the amount of compensation. It was necessary to consider that the amount lying in the executing/reference Court is the amount to which claimants is already held entitled.

5. In view of the same, writ petition stands allowed.

6. Order dated 1st February 2025 passed by the learned Reference Court i.e. District Judge-5, Jalna is quashed and set aside.
7. Petitioners are permitted to withdraw the amount of Rs.9,69,135/- alongwith accrued interest.
8. With this, writ petition stands disposed off.

[KISHORE C. SANT, J.]