



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CIVIL APPLICATION NO. 4952 OF 2025
IN FIRST APPEAL (ST) NO.5432 OF 2021

FAKIRAPPA NAGAPPAL (DIED), THROUGH LRS.,
DHONDABAI FAKIRAPPA MULE AND OTHERS
VERSUS

THE STATE OF MAHARASHTRA, THROUGH COLLECTOR, OSMANABAD

WITH

CIVIL APPLICATION NO. 7538 OF 2025
IN FIRST APPEAL (ST) NO.5432 OF 2021

FAKIRAPPA NAGAPPAL (DIED), THROUGH LRS.,
MAHADEVI BASWARAJ MASARE AND OTHERS
VERSUS

THE STATE OF MAHARASHTRA, THROUGH COLLECTOR, OSMANABAD

.....

Mr. Shashikiran N. Patil, Advocate for Applicants.

Mr. Sudhir Bhalerao, Advocate for Respondent No.1 (Through V.C.).

Mr. S. S. Dande, AGP for Respondents – State.

.....

CORAM : ABHAY S. WAGHWASE, J.

RESERVED ON : 23 JULY 2025

PRONOUNCED ON : 01 AUGUST 2025

ORDER :

1. These Applications are filed for withdrawal of amount of compensation deposited by this Appellant.

2. Learned counsel for the applicants/original respondents submit that the Trial Court on assumption that the doors, windows and other material used in roofing must have been removed before the actual demolition and, therefore, has accepted

the valuation report only to the extent of 40 percent. It is his submission that the said acceptance of valuation report is much on lower side and hence entire amount deposited be allowed to be withdrawn.

3. Learned counsel submits that, this Court in similar matters i.e. in Civil Application No. 6951 of 2025 in First Appeal No.3347 of 2023 and other two Applications, have permitted the similarly placed claimants to withdraw the entire amount with usual undertakings.

4. Learned counsel for respondent/original appellant opposes the Applications by contending that the Government Valuers report has been wrongly rejected by the reference Court.

5. *Prima facie* perusal of the order impugned indicates that there is presumption drawn by the reference court with regard to the removal of the windows and other removable material of the premise. In absence of any concrete evidence, it could not have been possible for the Reference Court to render such findings.

6. As a result of the said presumption, the valuation is accepted to the extent of 40%. *Prima facie* this Court finds

substance in the arguments of under valuation of property by Reference Court. In the facts of the case, there is no impediment for permitting the applicants to withdraw the amount deposited.

7. Applications stand allowed in terms of prayer clause “B”. Amount be disbursed by the applicant with usual undertaking.

(ABHAY S. WAGHWASE, J.)