

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

INTERIM APPLICATION NO. 11822 OF 2024.

IN

FIRST APPEAL (ST) NO. 27140 OF 2019.

Tipanna S/O. Bhimsha Patil

...Applicant.

IN THE MATTER BETWEEN

The Managing Director, Krishna Khore Development ... Appellants.
Corporation, Pune And Anr.

Versus

Tipanna S/O. Bhimsha Patil & Anr.

...Respondents.

WITH

INTERIM APPLICATION NO. 11845 OF 2024.

IN

FIRST APPEAL (ST) NO. 27147 OF 2019.

WITH

INTERIM APPLICATION NO. 11821 OF 2024.

IN

FIRST APPEAL (ST) NO. 27142 OF 2019.

WITH

INTERIM APPLICATION NO. 11820 OF 2024.

IN

FIRST APPEAL (ST) NO. 27133 OF 2019.

WITH

INTERIM APPLICATION NO. 11819 OF 2024.

IN

FIRST APPEAL (ST) NO. 27137 OF 2019.

Mr. Abhijit Y Patil for the Applicants in all IA's.

Mr. Vilas Tapkir for the Respondent.

Coram : Sharmila U. Deshmukh, J.

Date : February 6, 2025.

P. C. :

1. Interim Applications have been preferred seeking withdrawal of the compensation amount which has been deposited before this Court.

2. Learned Counsel appearing for the Applicant submits that the notification under Section 4 of the Land Acquisition Act was issued in or around 2004 and the Award under Section 11 was passed in the year 2005. He submits that the Reference was filed in the year 2016 and the Award came to be passed by the Reference Court in the year 2016 and till year 2024 the Applicants are deprived of the benefits of the Award. He submits that the Applicants are poor agriculturists whose lands have been acquired and they be permitted to withdraw the amount of compensation as the lands were their only source of survival.

3. *Per contra*, learned Counsel appearing for the Acquiring Body would oppose the Application and would submit that the Appeal has been preferred against the enhancement which was granted by the Reference Court and in event the Appeal succeeds there would be difficulty in recovering the said amount.

4. It cannot be disputed that the Claimants' land have been acquired in the year 2005 and despite receiving the award of enhanced compensation in the year 2016 they have been deprived of the benefits

of the said Award. The Appeal has been filed in the year 2019 and might take sometime for it to be finally heard. In my view, the equity can be balanced by permitting the Claimants to withdraw 50% of the deposited amount.

5. In light of the above, the Interim Application is partly allowed. The Applicants are permitted to withdraw 50% of the amount deposited by the acquiring body. The Registry is directed to transfer the 50% of the amount to the Reference Court for the purpose of withdrawal by the Applicants.

6. All the above Interim Applications stand allowed in the above term.

[Sharmila U. Deshmukh, J.]