

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

**CIVIL APPLICATION NO.155 OF 2015
IN
FIRST APPEAL NO.37 OF 2015**

Office Notes, Office Memoranda of Coram, appearances, Court's orders or directions and Registrar's orders	Court's or Judge's orders.
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Mr.VS.Tadake i/b Mr.D.D.Shinde for the applicant

CORAM : K.K.TATED, J.
DATED : 09/04/2015

PC:

1 Not on board. At the request of Advocate for the applicant, matter is taken on board for urgent orders.

2 The learned counsel for the applicant submits that respondents claimants filed Execution Application for recovery of entire awarded amount as per judgment and award dated 24.10.2013 passed by 2nd Joint Civil Judge, Senior Division Sangli in LAR No.5 of 2005. Hence, there is urgency.

3 The learned counsel for the applicant submits that in the present proceeding, the Special Land Acquisition Officer issued notification under section 4 of the Land Acquisition Act dated 18.6.1998 for acquiring respondents claimants

land for submergence of Kavthemahankal Canal, K.M.24 of Village Haroli. After following due process of law, Special Land Acquisition Officer passed award on 29.11.2001 under section 11 of the Land Acquisition Act and awarded total compensation of Rs.1,21,094/-. Being aggrieved by award, Respondent Claimant preferred reference application under section 18 of the Land Acquisition Act. He submits that the Reference Court awarded compensation in respect of acquired land @ 2,40,000/- per acre which is on higher side. He submits that the Reference Court has not considered the sale deeds on record at the time of awarding compensation in respect of acquired land. He submits that applicant has good chance of success in the present matter. He submits that if entire amount is recovered by the claimant in Execution Application, nothing will survive in the present proceeding. He submits that in the interest of justice, this Hon'ble Court be pleased to stay the operation and implementation of the Judgment and Award dated 22.10.2013 passed by Learned 2nd Joint Civil Judge, Senior Division, Sangli in L.A.R. No.5 of 2005.

4 Considering the submissions made by the learned counsel for the Applicant and as respondents claimants filed Execution Application, I am satisfied that the Applicant has made out a case for allowing the present Civil Application.

5 It is to be noted that this order is passed without issuing notice to the respondents claimants, hence, liberty granted to them to prefer appropriate application if they so desire.

6 Hence, following order:

a) Operation and implementation of the judgment and award dated 22.10.2013 passed by Learned 2nd Joint Civil Judge, Senior Division, Sangli in L.A.R. No.5 of 2005 is stayed on the condition that applicant to deposit entire decretal amount with interest and cost in the Reference Court within four weeks from today, failing which Civil Application shall stand dismissed without referring back to the court.

(b) If amount is not deposited within stipulated time as stated hereinabove, respondents claimants are entitled to execute the award according to law.

(c) If amount is deposited within stipulated time as stated hereinabove, respondents claimants are entitled to withdraw 25% amount without furnishing any security.

(d) Liberty granted to the respondent claimant to prefer appropriate application if they so desire for withdrawal of additional amount and that application be decided on its own merits.

(e) Civil Application is disposed of accordingly.

(K.K.TATED, J.)