

FARAD CONTINUATION SHEET
IN THE HIGH COURT OF JUDICATURE AT BOMBAY.
CIVIL APPELLATE SIDE JURISDICTION.

CIVIL APPLICATION NO.3407 OF 2014
IN
FIRST APPEAL NO.1194 OF 2014

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. V. S. Tadke for the Applicant

CORAM : K. K. TATED, J.
DATE : APRIL 29, 2015

P.C.:

1. Heard. This Application is preferred by the acquiring body for stay of the operation and implementation of the impugned judgment and award dated 22/10/2013 passed by the Reference Court in LAR No.2/2005 awarding enhanced compensation in respect of the acquired land.

2. The learned counsel for the Applicant submits that the SLO issued Notification under section 4 of the Land Acquisition Act, 1894 dated 11/06/2008 for acquiring the Respondent-Claimant's land for submergence of Kavathemahakal Canal, KM No.24 of Village Haroli. After following due process of law, passed order dated 29/11/2001 under section 11 of the Land Acquisition Act, 1894.

3. Being aggrieved by the same, the Respondent-Claimant preferred Reference in which the Reference Court passed the impugned award and granted enhanced compensation. He submits that at the time of passing the impugned award, the Reference Court failed to consider the relevant sale deeds on record for determining the market value of the acquired land. He submits that the Applicant has good chance of success in the matter. He submits that if stay is not granted nothing will survive in the matter. Hence, this Hon'ble Court be pleased to stay the operation and implementation of the impugned judgment and award passed by the Reference Court till hearing and final disposal of the First Appeal.

4. Considering the submissions made by the learned counsel for the Applicant and the averments made in the Application, I am satisfied that the Applicant has made out a case for allowing the present Civil Application.

5. As this order is being passed without issuing any notice to the Respondent, liberty granted to the Respondent - claimant to file an appropriate Application for withdrawal of the amount, if they so desire, which will be decided on its own merits.

6. Hence, the following order:

a) The operation and implementation of the impugned judgment and award dated 22/10/2013 passed by the Reference Court in LAR No.2/2005 is stayed, subject to the Applicant depositing the entire awarded amount along with interest in Reference Court, within 8 weeks from today, failing which the Civil Application shall stand dismissed without further reference to the court.

b) If amount is not deposited within stipulated time as stated hereinabove the Respondent-Claimant is entitled to execute the award as per law.

c) If amount is deposited within stipulated time as stated herein above, the liberty granted to the Respondent - claimant to file an appropriate Application for withdrawal of the amount, if they so desire, which will be decided on its own merits.

d) The Reference Court is directed to invest the amount in a fixed deposit account of any Nationalized bank, initially for a period of one year which will be renewed from time to time till hearing and final disposal of the appeal.

e) Civil Application stands disposed off accordingly.

JUDGE