

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

**CIVIL APPLICATION NO.2585 OF 2015
IN
FIRST APPEAL NO.867 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.A.R.Patil, A.G.P. for the applicant

CORAM : K.K.TATED, J.
DATED : 07/08/2015

PC:

1 Not on board. At the request of learned A.G.P. for the applicant, matter is taken on board for urgent orders.

2 This application is preferred by State of Maharashtra for stay of the operation and implementation of the impugned judgment and award dated 4.2.2013 passed by Civil Judge, Senior Division, Sindhudurg at Oras in Land Reference No.4 of 2000 awarding enhanced compensation of Rs.1,46,245/- for fruit bearing and other trees and also granted enhanced rate of 514/- per Are.

3 The learned A.G.P. for the applicant submits that the respondents claimants filed Execution Application for recovery of awarded amount. He submits that the next date in the Execution

Application is 10.8.2015. Hence, there is urgency.

4 The learned A.G.P. submits that Reference Court erred in coming to the conclusion that the respondents claimants are entitled enhanced compensation in respect of acquired land. The learned A.G.P. submits that in the present proceeding Special Land Acquisition Officer issued notice under section 4 of the Land Acquisition Act, dated 29.12.1986 for acquiring respondent claimant's land situated at Mouje Pal, Taluka Sawantwadi, District Sindhudurg. He further submits that after following due process of law, Special Land Acquisition Officer passed award dated 29.12.1986 and awarded compensation in respect of acquired land.

5 Being aggrieved by the award passed by Special Land Acquisition Officer respondents claimants preferred Reference under section 18 of the Land Acquisition Act. In the said Reference, Reference Court awarded compensation of Rs.1,46,245/- towards the fruit bearing and other trees and also granted enhanced rate of Rs.514/- per Are in respect of acquired land.

6 The learned A.G.P. submits that the Reference Court has not considered sale instances on record at the time of awarding enhanced compensation. He submits that Reference Court has awarded enhanced compensation in respect of acquired

land which is over and above market value on the date of issuing notice under section 4 of the Land Acquisition Act.

7 The learned A.G.P. submits that if stay is not granted, irreparable loss and injury will be caused to the applicant. He submits that if respondent claimant succeeds in the recovery of entire awarded amount 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 impugned judgment and award dated 4.2.2013 passed by Civil Judge, Senior Division Sindhudurg at Oras in Land Acquisition Reference No.4 of 2000.

8 Considering the submissions made by the learned A.G.P. for the applicant and the averments made in Civil Application, I am satisfied that the applicant has made out a case for allowing Civil Application. Hence, following order is passed:

a) Operation and implementation of the impugned judgment and award dated 4.2.2013 passed by Civil Judge, Senior Division Sindhudurg at Oras in Land Acquisition Reference No.4 of 2000 is stayed on the condition that applicant to deposit entire decretal amount with interest and cost in the Reference Court within twelve weeks from today, failing which Civil Application shall stand

dismissed without referring back to the court.

b) Reference Court is directed to invest amount in fixed deposit of any nationalised bank initially for a period of one year and half year and same be continued till the hearing and final disposal of the First Appeal.

c) Liberty granted to the respondents claimants to prefer appropriate application if they so desire for withdrawal of further amount and that application be decided on its own merits.

d) Civil application stands disposed off accordingly.

(K.K.TATED, J.)