

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

**CIVIL APPLICATION NO.2626 OF 2015
IN
FIRST APPEAL (ST) NO.28732 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.A.R.Patil, A.G.P. for the applicant

Mr.Drupad S. Patil for the respondent

CORAM : K.K.TATED, J.
DATED : 12/08/2015

PC:

1 Not on board. At the request of 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 judgment and award dated 16.5.2014 passed by Civil Judge, Senior Division, Alibag-Raigad in Land Acquisition Reference No.1447 of 2000 (Old L.A.R. No.33 of 2000) by which the Reference Court awarded additional compensation of Rs.2,06,213/- in respect of acquired property.

3 The learned A.G.P. Submits that respondent claimant filed Execution Application for recovery

of awarded amount. He submits that if entire amount is recovered by the respondent claimant in Execution Application, nothing will survive in the present proceeding. Hence, there is urgency.

4 The learned A.G.P. submits that Reference Court has awarded additional compensation without considering the sale instances on record. He further submits that the Reference Court has awarded compensation on higher side. He submits that they have good chance of success in the present proceeding. Hence, in the interest of justice, this Hon'ble Court be pleased to stay the operation and implementation of the judgment and award dated 16.5.2014 till the hearing and final disposal of First Appeal.

5 On the other hand, the learned counsel for the respondent vehemently opposed the present Civil Application. He submits that Reference Court has awarded additional compensation which is actually on lower side. If this court granted stay to the impugned award passed by Reference Court, in that case, applicant may be directed to deposit entire awarded amount with liberty to the respondent claimant to prefer appropriate application for withdrawal of the amount.

6 Considering the submissions made by the learned counsel 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 judgment and award dated 16.5.2014 passed by Civil Judge, Senior Division, Alibag-Raigad in Land Acquisition Reference No.1447 of 2000 (Old L.A.R. No.33 of 2000) is stayed on the condition that applicant to deposit entire awarded amount with interest and cost in the Reference Court within three months 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, liberty granted to the respondent claimant to prefer appropriate application if they so desire for withdrawal of amount and that application be decided on its own merits.
- d) Reference Court is directed to invest entire amount in fixed deposit of any nationalised bank initially for a period of one and half year and same be continued till the hearing and final disposal of the First Appeal.

- e) Civil Application is disposed of accordingly.

(K.K.TATED, J.)