

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

**CIVIL APPLICATION NO.281 OF 2016  
IN  
FIRST APPEAL (ST). NO.2359 OF 2016**

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| 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 : 29/01/2016**

**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 The learned A.G.P. for the respondent claimant filed Execution Application No.35 of 2014 for recovery of entire awarded amount. He submits that if entire amount is recovered by the respondent claimant in Execution Application then nothing will survive in the present proceedings. Hence, there is urgency.

3 This application is preferred by State of Maharashtra for stay of the operation and implementation of the impugned judgment and award dated 20.2.2014 passed by learned 2<sup>nd</sup> Joint

Civil Judge, Senior Division, Alibag-Raigad in L.A.R.No.6 of 1996 (Old L.A.R. No.91 of 1996) holding that the respondent claimants are entitled additional compensation of Rs.41,018/- towards the acquired property.

4 The learned A.G.P for the applicant submits that in the present proceeding, Special Land Acquisition Officer issued notification under section 4 of the Land Acquisition Act on 4.8.1994 for acquiring respondent's land situated from village Mandad, Taluka Mangaon, District Raigad for the purpose of Gaonthan village at Mandad. He submits that after following due process of law, Special Land Acquisition Officer by award dated 31.8.1996 under section 11 of the Land Acquisition Act awarded compensation of Rs.13,855/- in favour of respondents claimants.

5 The learned A.G.P for the applicant submits that being aggrieved by the said award, respondent claimant filed reference under section 18 of the Land Acquisition Act for additional compensation. In that application claimant prayed compensation @ Rs.10,000/- per guntha. He submits that in the said Reference, Reference Court by the Judgment and award dated 28.2.2014 held that the claimants are entitled compensation in respect of acquired land @ Rs.13/- per sq.mtrs. He submits that Reference Court has awarded total

additional compensation of Rs.41018 in favour of respondent claimant. He submits that at the time of awarding additional compensation in respect of acquired land, Reference Court failed to consider the sale instances on record. He submits that applicant has good chance of success. He submits that if stay is not granted, irreparable loss will be caused to them.

6 Considering the submissions made by the learned A.G.P for the applicant and after perusing the impugned judgment and award passed by Reference Court, I am of the opinion that the applicant has made out a case for allowing Civil Application. This being a money decree, they have to deposit entire awarded amount Hence, following order is passed:

- a. The operation and implementation of the impugned judgment and award dated 20.2.2014 passed by learned 2<sup>nd</sup> Joint Civil Judge, Senior Division, Alibad-Raigad in L.A.R.No.6 of 1996 (Old L.A.R. No.91 of 1996) is stayed, till hearing and final disposal of the appeal on condition that the Applicant State of Maharashtra to deposit the entire awarded amount with interest, cost, if any, in the Reference Court within 8 weeks from today, failing which the Civil Application shall stand dismissed without further reference to the court.
- b. If the entire awarded amount is not deposited

within stipulated time as stated hereinabove, the Respondent-claimants are entitled to execute the award as per law.

c. If amount is deposited within stipulated time as stated hereinabove, 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 and same shall be renewed from time to time till hearing and final disposal of the appeal.

d. If amount is deposited within stipulated time as stated hereinabove, liberty granted to the claimants to prefer an appropriate Application for withdrawal of amount, if they so desire, which will be decided on its own merits.

e. Civil application stands disposed off accordingly.

**(K.K.TATED, J.)**