

FARAD CONTINUATION SHEET
IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
CIVIL APPLICATION NO.1302/2015
IN
FIRST APPEAL (ST) NO. 24944/2014

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, AGP for the Applicant

CORAM : K. K. TATED, J.
DATE : JANUARY 15, 2016

P.C.:

1. This Application is made by the State for for stay of the operation and implementation of the impugned award dated 12/03/2013 passed by the Civil Judge, Senior Division Thane in LAR No.15/2011 (Old LAR No.96/1988) awarding additional compensation of Rs.93,645/- in respect of the acquired property.

2. The learned AGP for the State submits that in the present proceedings, the SLO issued Notification u/s. 4 of the Land Acquisition Act, 1894 dated 03/02/1970 for acquiring the Respondent's land situated at village Nerul, Tq. & Dist. Thane for planned development and utilization of the lands in Trans Thane Creek are for the Industrial, Commercial and Residential

purposes. He submits that after following due process of law, the SLO passed award dated 12/09/1986 u/s. 11 of the said Act and granted compensation of @ Rs.2.50 PSM. He submits that being aggrieved by the said award, the Respondent-Claimant filed reference u/s. 18 of the said Act wherein enhanced compensation of Rs.6/- P.S.M. was granted. He submits that at the time of fixing the market value of the acquired land, the Reference Court has not considered the earlier judgment in LAR No.35/1975 and judgment in First Appeal No.395/1979. He submits that the Reference Court granted compensation in respect of the acquired land on higher side. He submits that the Applicant has good chance of success in the matter. If stay is not granted irreparable loss and injury will be caused to the Applicant. 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 passed by the Reference Court till hearing and final disposal of the appeal.

3. 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. At the same time,

since money decree is under challenge, the Applicant has to deposit the entire awarded amount in the Reference Court within 3 months from today.

4. Hence, the following order:

a. The operation and implementation of the impugned judgment and award dated 12/03/2013 passed by the Civil Judge, Senior Division Thane, in LAR No.15/2011 (old LAR No.96/1988) is stayed, till hearing and final disposal of the appeal on condition that the Applicant to deposit the entire awarded amount with interest, cost, if any, in the Reference Court within 3 months 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. The Tribunal is directed to invest the awarded award 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 the entire awarded amount is deposited within stipulated time as stated hereinabove, the Respondent-claimant are granted liberty to make 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.

JUDGE