

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

CIVIL APPLICATION NO.4251 OF 2014

IN

FIRST APPEAL (ST) NO.25505 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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None for the applicant

Later on :

Mr.A.R.Patil, A.G.P for the applicant

CORAM : K. K. TATED, J.

DATE : MARCH 04, 2016

P.C.:

1 None for the applicant.

2 On 5.2.2016 no one appeared on behalf of applicant. Hence, today, the matter is shown under the caption 'for dismissal'.

3 Today also, no one appeared on behalf of applicant. Hence, Civil Application is dismissed for default.

4 Later on, learned A.G.P for the applicant mentioned the matter. Earlier order is recalled.

Matter is restored on file.

5 This application is for preferred by State of Maharashtra for stay of the operation and implementation of the judgment and award dated 6.5.2014 passed by Civil Judge, Senior Division Raigad at Alibag in LAR No.412 of 2000 (Old LAR No.571 of 1989).

6 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 26.09.1986 for acquiring respondent's land from village Bambavi, Taluka Panvel, District Raigad for New Bombay project. He submits that after following due process of law, Special Land Acquisition Officer by award dated 16.9.1989 under section 11 of the Land Acquisition Act awarded a sum of Rs.35,130/- per hectare by way of compensation.

7 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. He submits that in the said Reference, Reference Court by impugned judgment and award dated 18.9.1989 awarded compensation @ Rs.1000 per sq.mtr alongwith other benefits. He submits that in the said

reference, the Reference Court passed judgment and award and awarded enhanced compensation of Rs.19,38,929/- with 30% solatium and 12% additional component. He submits that the Reference Court has not considered the relevant sale instances at the time of passing impugned judgment and award. He submits that Reference Court awarded compensation on higher side. He submits that applicant has good chance of success. He submits that pending the hearing and final disposal of First Appeal, this Hon'ble Court be pleased to stay the operation and implementation of the award dated 6.5.2014 passed by Civil Judge, Senior Division Raigad at Alibag in LAR No.412 of 2000 (Old LAR No.571 of 1989). He submits that if stay is not granted, irreparable loss will be caused to them.

8 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 and as Reference Court awarded additional compensation of Rs.19,38,929/-, 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 6.5.2014 passed by Civil Judge, Senior Division Raigad at Alibag in LAR No.412 of 2000 (Old LAR No.571 of 1989) 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 12 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.

JUDGE