

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

CIVIL APPLICATION NO.3768 OF 2015

IN

FIRST APPEAL (ST). NO.33134 OF 2014

Office Notes, Office Memoranda of Coram, appearances, Court's orders or directions and Registrar's orders	Court's or Judge's orders.
---	----------------------------

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

CORAM : K.K.TATED, J.

DATED : 25/01/2016

PC:

1 Heard the learned counsel for the applicant.

2 This application is preferred by State of Maharashtra for stay of the operation and implementation of the award dated 29.3.2014 passed by 2nd Joint Civil Judge, Senior Division, Alibag at Raigad in LAR No.144 of 2002 by which the Reference court awarded additional compensation of Rs.8,16,881/-.

3 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 22.07.1999 for acquiring respondent's land from New Bombay project from Village Jasai, Taluka

Uran, District Raigad. He submits that after following due process of law, Special Land Acquisition Officer by award dated 31.05.2000 under section 11 of the Land Acquisition Act awarded a sum of Rs.33,119/- by way of compensation.

4 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 claiming compensation in respect of acquired land @ Rs.3000/- PSM. He submits that the Reference Court without considering the sale instances on record and previous judgment in land acquisition matter, awarded compensation on higher side i.e. @ Rs.1,250/- psm. 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 29.3.2014 passed by 2nd Joint Civil Judge, Senior Division, Alibag at Raigad in LAR No.144 of 2002. He submits that if stay is not granted, irreparable loss will be caused to them.

5 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 29.3.2014 passed by 2nd Joint Civil Judge, Senior Division, Alibag at Raigad in LAR No.144 of 2002 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.

(K.K.TATED, J.)