

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

**CIVIL APPLICATION NO. 652 OF 2013
IN
FIRST APPEAL NO. 1462 OF 2014**

The Commissioner,
Nashik Municipal Corporation, Nashik ... Applicant
V/s.
Sitaram Shankar Bankar & Ors. ... Respondents

Mr. Akshay Kapadia i/b J. Shekhar & Co. for the applicant.
None for the respondents.

**CORAM : K. K. TATED, J.
DATED : 05/01/2016**

P.C.:

. Heard learned Counsel for the applicant.

2 Though the respondents are duly served, no one appeared on behalf of them, when the matter called out.

3 This application is preferred by Acquiring Body for stay of operation and implementation of Judgment and Award dated 14.05.2012 passed by 2nd Jt. Civil Judge, Senior Division, Nashik in L.A.R. No. 07 of 2002 by which the Reference Court held that the respondents-claimants are entitled to an amount of Rs.22,97,394/- towards the enhanced compensation along with additional benefits as per amended provisions of Land Acquisition Act.

4 In the present matter, the Applicant issued notification under

Section 126 of M.R.T.P. Act and under Section 6 of Land Acquisition Act for acquiring Respondents' original Claimants' land admeasuring 900 sq. mtrs. from the survey No. 835/3 and 900 sq. mtrs. from the survey No. 835/6 total admeasuring 1800 sq. mtrs. at village Nashik (Tapovan), Tal. & District Nashik for 30 mtrs. wide D. P. Road. After following due process of law, the Special Land Acquisition Officer passed award and awarded compensation in respect of acquired land @Rs.630/- per square meter.

5 Being aggrieved by the said Award, the respondents-claimants preferred Reference under Section 18 of Land Acquisition Act. In that Reference, the Reference Court after considering the evidence on record held that respondents-claimants proved the market value of acquired land of Rs.1532/- per sq. meter. In spite of that the Reference Court awarded compensation in favour of respondents-claimants @ Rs.1200/- per sq. meter because respondents-claimants paid Court fees in Reference under Section 18 at that rate only.

6 The learned Counsel for the applicant submits that the Reference Court erred in coming to the conclusion that the respondents-claimants are entitled to compensation in respect of acquired land @Rs.1200/- per sq. meter. He further submits that the compensation awarded by the Reference Court was on higher side. He submits that Reference Court failed to consider the relevant sale deeds on record for fixing the market value of acquired land.

7 The learned Counsel for the applicants submits that applicants

have good chance of success in the present proceedings. He submits that 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 Judgment and Award dated 14.05.2012 till the hearing and final disposal of the First Appeal.

8 Though the respondents are duly served, no one appeared on behalf of them, when the matter called out.

9 Considering the submissions made by learned counsel for the applicant and averments made in civil application, I am satisfied that applicant has made out the case for allowing the civil application. But at the same time, they have to deposit the entire awarded amount in the Reference Court within eight weeks from today.

10 Hence, the following order:

a) The operation and implementation of Judgment and Award dated 14.05.2012 passed by 2nd Jt. Civil Judge, Senior Division, Nashik in L.A.R. No. 07 of 2002, is stayed till the hearing and final disposal of First Appeal on condition that applicant-acquiring body to deposit the entire awarded amount including interest and cost, if any, in Reference Court within eight weeks 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

herein above, the respondents-claimants is free to execute the award according to law.

- c) If amount is deposited within stipulated time as stated herein above, the Reference Court is directed to invest the entire amount in Fixed deposits of any Nationalised Bank, initially for the period of one year and same to be continued till hearing and final disposal of the First Appeal.
- d) Liberty granted to the respondents claimants to take out appropriate application, if they so desire, for withdrawal of the amount and that application will be decided on its own merits.
- e) Civil Application stands disposed of accordingly.

(K.K.TATED, J.)