

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

**CIVIL APPLICATION NO.4651 OF 2016
IN
FIRST APPEAL (ST). NO.1479 OF 2016**

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 State

**CORAM : K. K. TATED, &
SARANG V. KOTWAL, JJ.
DATE : JANUARY 8, 2018**

P.C.:

1. Heard.
2. This Application is for stay of the operation and implementation of the judgment and award dated dated 17.9.2014 passed by Civil Judge, Senior Division, Panvel, District Raigad in L.A.R.No.50 of 2002.
3. The learned A.G.P for the Applicant submits that in the present proceedings, Special Land Acquisition Officer issued notification under section 4 of the Land Acquisition Act dated 24.9.1986 for acquiring Respondents original Claimants land at Village Wadghar, Taluka Panvel, District Raigad for New Bombay Project. He

submits that Special Land Acquisition Officer passed award on 25.8.1989 and awarded compensation of Rs.95,788/- including statutory benefits. Being aggrieved by the said award Respondents org. Claimants preferred Reference under section 18 of the Land Acquisition Act and claimed enhanced compensation @ Rs.2000 per sq.mtr. He submits that Reference Court by impugned judgment and award awarded market value of the acquired land @ 889 per sq.mtr. with statutory benefits, which is on higher side.

4. The learned A.G.P. for the applicant submits that Reference Court failed to consider the fact that Respondents org. Claimants failed to produce any documentary evidence to show that they are entitled compensation in respect of acquired land @ 889 per sq.mtr. He submits that Special Land Acquisition Officer after considering all evidence on record awarded total compensation of Rs.95,788/- as per market value. He submits that they have good chance of success in the present First Appeal.

5. The learned A.G.P. for the Applicant submits that pending the hearing and final disposal of the present First Appeal, this Hon'ble Court be pleased to stay the operation and implementation of the impugned judgment and award dated 17.9.2014

passed by Reference Court. He submits that if entire amount is recovered by the Respondent Claimant by preferring Execution Application nothing will survive in the present First Appeal. He further submits that it is very difficult for the Applicant to recover entire amount from the Respondent. Hence, during the pendency of the present First Appeal this Hon'ble Court be pleased to stay the operation and implementation of the impugned judgment and award passed by Reference Court.

6. Heard.

7. It is to be noted that in the present proceedings, Special Land Acquisition Officer awarded Rs.95,788/- towards total compensation of acquired land including statutory benefits whereas reference court awarded sum of Rs.2,02,13,689/- towards land value only. Considering these facts and the reason given by the Reference Court, we are satisfied that the Applicant has made out a case for allowing Civil Application on condition that applicant have to deposit entire amount in Reference Court. The order is passed without issuing notice to the Respondents, liberty granted to the Respondents, if they so desire to make appropriate Application for withdrawal of the amount and if said Application is made, that

will be considered on its own merits. Hence, following order is passed:

- a) Operation and implementation of the impugned judgment and award dated 17.9.2014 passed by Civil Judge, Senior Division, Panvel, District Raigad in L.A.R.No.50 of 2002 is stayed till the hearing and final disposal of the First Appeal on condition that Applicant to deposit entire decretal amount in the Reference court within 12 weeks from today.
- b) If amount is not deposited within stipulated time as stated hereinabove, Respondents claimants are entitled to execute the award according to law.
- c) If amount is deposited within stipulated time as stated hereinabove, reference court is directed to invest the said amount in fixed deposit of any nationalised bank initially for a period of one year and same will be continued till further orders.
- d) Liberty granted to the Respondents org. Claimants, if they so desire, to prefer appropriate Application for withdrawal of the said amount and that Application will be decided on its own merits.
- e) Civil application stands disposed off accordingly.

(SARANG V. KOTWAL)

(K.K.TATED, J.)