

dik

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

CIVIL APPLICATION NO. 3649 OF 2017
IN
FIRST APPEAL (ST) NO. 19660 OF 2017

The State of Maharashtra	...Applicant
vs	
Anant Tukaram Patil & Ors.	...Respondents

.....
Mr A.R.Patil, AGP for the Applicant.
Mr Sachin S. Punde for Respondent Nos.1 to 5.
.....

**CORAM : K.K.TATED &
B.P.COLABAWALLA, JJ.
JUNE 11, 2018.**

P.C. :

Heard learned counsel for parties.

2 By this Civil Application, the applicant - State of Maharashtra is seeking stay to the operation and implementation of the Judgment and Award dated 31st March, 2016 passed by the Reference Court in Land Reference No. 361 of 2000 by which the Reference Court has awarded the enhanced compensation in respect of the acquired land.

3 Learned AGP submits that in the present proceedings the Land Acquisition Officer had issued notification under

Section 4(1)(b) of the Land Acquisition Act, 1894 dated 24th September, 1986 for acquiring the Respondents' land situated at Roadpali, Taluka Panvel, District Raigad for New Bombay Project. He submits that after following the due process of law, the Land Acquisition Officer declared the award dated 31st March, 1989 and awarded the compensation of Rs.45,197/-. Learned AGP submits that the respondent filed reference under Section 18 of the Land Acquisition Act, 1894 and claimed for enhanced compensation of the acquired land @ Rs.2000/- per square meter. He submits that the Reference Court failed to consider the sale instances on record and awarded the compensation in respect of the acquired land @ Rs.1725 per square meter.

4 The learned AGP submits that they have good chance of success in the present appeal. He submits that if the entire awarded amount is recovered by the applicants in the Execution Application, then it will be very difficult to bring back the amount, if the applicants succeed in the present appeal.

5 Learned AGP submits that in the interest of justice, this Honourable Court be pleased to allow the present Civil Application and restrain the respondents from executing the

impugned award.

6 On the other hand , learned advocate for the respondents submit that the learned Reference Court has passed the Judgment and Award after considering all facts and hence the applicant be directed to deposit the entire amount in the Reference Court with liberty to the respondents to withdraw the same. He further submits that the Reference Court has awarded the compensation after considering sale instances and earlier Judgments and as such there is no necessity for granting of any stay.

7 Considering the submissions made by the learned AGP and the averments made in the Civil Application and the impugned Judgment and Award, we are satisfied that that the applicants have made out a case for allowing this Civil Application. At the same time the applicants have to deposit entire awarded amount along with costs and interest, if any, in the Trial Court. Hence, the order.

- (a) The operation and implementation of the impugned Judgment and Award dated 4th November, 2015 passed by the learned Civil Judge, Senior Division,

Alibag in L.A.R. No.361 of 2000 (Old L.A.R. No.93 of 1989) is stayed till further orders on condition that the applicants to deposit the entire awarded amount along with interest, costs in Reference Court (Trial Court) within 12 weeks from today failing which the interim protection granted shall stand vacated without further reference to the court;

- (b) If the amount is deposited by the applicants within the stipulated time as stated above, the Reference Court (Trial Court) is directed to invest the said amount in Fixed Deposit in any Nationalized Bank initially for a period of one year and same to be continued till further orders;
- (c) If the amount is not deposited within the stipulated time as stated above, the respondents claimants are entitled to execute the award in accordance with law;
- (d) Liberty is granted to the respondents claimants to make an application to this Court for withdrawal of the amount if they so desire, which shall be decided on its own merits;
- (e) The Civil Application is disposed of accordingly;
- (f) No costs.

(B.P.COLABAWALLA, J.)

(K.K.TATED, J.)