

**Basavraj
Gurappa
Patil**

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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION NO.3652/2017

IN

FIRST APPEAL (ST) NO.19810/2017

State of Maharashtra & Ors.

... Applicants

V/s.

Gangaram Pavsha Bhoir (Deceased)
Through Legal Heirs

... Respondents

Mr. A. R. Patil, AGP for the Applicants State

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

DATED : JULY 16, 2018

P.C. :

1 Heard. Though the Respondents are duly served, none appeared for them.

2 By this Civil Application the Applicant is seeking to stay the judgment and award dated 30.09.2016 passed by the Civil Judge, Senior Division, Alibaug in LAR NO.390/2000 holding that the Respondent claimants are entitled to additional compensation of Rs.3,06,04,235/- in respect of the acquired land. The learned AGP submits that if the entire amount is recovered by the Respondent claimant in execution Application, nothing would survive in the present proceedings and it would be very difficult for them to recover the same

if they succeed in the First Appeal. He submits that the Appellant has good chance of success in the matter. He further submits that the Reference Court has failed to consider the relevant documents at the time of awarding the enhanced compensation.

3 Considering the submissions made by the learned AGP and the impugned order, we are satisfied that the Applicant has made out a case for allowing the Civil Application. At the same time, this being the money decree, the Applicant will have to deposit entire decretal amount in the Reference Court within 16 weeks from today along with interest.

4 Hence, following order is passed:

- a. The Civil Application is allowed in terms of prayer clause (b), subject to the Applicant depositing the entire decretal amount along with interest, costs, if any in the Reference Court within 16 weeks from today, failing which the Civil Application shall stand dismissed without further reference to the court.

Prayer clause (b) reads thus:

(b) that this Hon'ble Court be pleased to stay the operation, execution and implementation of the judgment and award dated 30.09.2016 passed by the learned Civil Judge, Senior Division, Alibag in LAR No.390/2000 (Old LAR No.537/1989), till hearing and final disposal of the above mentioned First Appeal."

- b. If the amount is not deposited within stipulated time as stated hereinabove, the Respondent claimants are entitled to execute the award according to law.

c. If the amount is deposited within stipulated time as stated hereinabove, the Reference Court is directed to invest the same 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. Liberty granted to the Respondent claimants, if they so desire, to make an appropriate Application for withdrawal of the amount deposited by the Applicant, which will be decided on its own merits

e. Civil application stands disposed off accordingly.

(B. P. COLABAWALLA, J.)

(K.K. TATED, J.)