

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION NO. 3545 OF 2014

IN

FIRST APPEAL NO. 788 OF 2014

The Commissioner, Nashik Municipal CorporationApplicant

Versus

Shri. Nashik Panchwati Panjrapol Trust, Nashik & Anr.Respondent

Mr. Murlidhar L. Patil for the applicant.

Mr. A.R. Patil, AGP for the State/R.No.2.

***CORAM : K.K. TATED &
SARANG V. KOTWAL, JJ.***

DATE : 09TH JANUARY, 2018

P.C. :

1. Heard the learned counsels for the respective parties.
2. This application is preferred by the Nashik Municipal Corporation for stay of the operation and implementation of the impugned judgment and award dated 18th April, 2013 passed by the Joint Civil Judge, Senior Division, Nashik in Land Reference Application No.8 of 2002.
3. Mr. Murlidhar Patil, learned counsel for the applicant submits that the Special Land Acquisition Officer issued notification under

section 4 of the Land Acquisition Act, 1894 on 16th February, 1998 for acquiring respondents/claimants land admeasuring 15.16 H.R. bearing Gat No.75-A of Village Chunchale for the purpose of storage of scrap material. He submits that after following due process of law, Special Land Acquisition Officer declared award on 15th November, 2000 awarding total compensation of Rs.91,98,090/-. Being aggrieved by the said award, the respondents/claimants preferred reference under section 18 of the Land Acquisition Act. The reference court enhanced the compensation to the tune of Rs.5,43,03,328/-.

4. Learned counsel for the applicant further submits that the Reference Court failed to consider the fact that the respondents/claimants failed to place on record the relevant documents / sale deeds to show that they are entitled more than Rs.5 crores by way of compensation in respect of acquired land. He submits that the applicant have good chance of success in the present proceedings. He submits that the respondents/claimants have already filed Execution Application for recovery of entire decretal amount. He submits that if the entire amount is recovered by the respondents/claimants in execution application, than nothing will survive in the present proceedings and in that case it will be very difficult for them to recover the said amount if they succeed before this Court. He submits that in the interest of justice pending the hearing and final disposal of the first appeal, this court be pleased to stay the operation and implementation of the impugned award.

5. Considering the submissions made by the learned counsel for the applicant and the reasons given by the Reference Court, we are satisfied that the applicant has made out case for allowing this civil application on condition that the applicant to deposit the entire awarded amount in Reference Court within twelve weeks from today. Hence following order :-

(i) The operation and implementation of the impugned award dated 18th April, 2013 passed by the Joint Civil Judge, Senior Division, Nashik in Land Reference Application No.8 of 2002 is stayed till the hearing and final disposal of the first appeal on condition that the applicant to deposit the entire awarded amount with interest and costs in trial court within twelve weeks from today failing which the Civil Application shall stand dismissed without referring back to the Court.

(ii) If entire awarded amount is deposited within stipulated time as stated above, the Reference Court is directed to invest the said amount in fixed deposit in any nationalized bank initially for the period of one year and same to be continued till further orders.

(iii) If the awarded amount is not deposited within stipulated time as stated hereinabove, the respondents/claimants are entitled to execute the award according to law.

(iv) If the awarded amount is deposited within stipulated time as stated hereinabove, liberty is granted to the respondents/claimants if

they so desire to prefer appropriate application for withdrawal of the amount and that application will be decided on its own merits.

(v) Civil Application stands disposed of accordingly.

(SARANG V. KOTWAL, J.)

(K.K. TATED, J.)