

dik

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

CIVIL APPLICATION NO. 1734 OF 2018
IN
FIRST APPEAL (ST) NO. 26483 OF 2015

The State of Maharashtra & Anr. ...Applicants/Appellants
vs
Chandu Kana Thakur (deceased)
through heirs ...Respondents

.....
Mr A.R.Patil, AGP for the Appellants/Applicants.
.....

**CORAM : K.K.TATED &
B.P.COLABAWALLA, JJ.
APRIL 27, 2018.**

P.C. :

At the request of learned AGP, the matter is taken on production board at 3.00 p.m.

2 Learned AGP submits that the respondents-original claimants have filed an execution application for recovery of the awarded amount, hence there is urgency.

3 Learned AGP submits that the reference court by an impugned Judgment and Award dated 24th March, 2015 awarded an additional compensation of Rs.2,54,07,788/-. He submits that at the time of awarding the additional

compensation Reference Court failed to consider the prevailing market rate of acquired land on the date of notification under Section 4 of Land Acquisition Act, 1894. He submits that they have good chance of success in the present appeal. He submits that if the entire awarded amount is recovered by the claimants in the Execution Application, then it will be very difficult to bring back the amount, if the applicants succeed in the present appeal.

4 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.

5 Considering the submissions made by the learned AGP and the averments made in the Civil Application, 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 24th March, 2015

passed by the learned Civil Judge, Senior Division, Panvel in L.A.R. No.214 of 2007 (Old L.A.R. No.219 of 2007) 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 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.)