

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
CIVIL APPLICATION NO. 3520 OF 2018
IN
FIRST APPEAL (ST) NO.26738 OF 2018**

The State of Maharashtra
Through the Special Land Acquisition
Officer and Ors. ... Applicants

Vs

Bhagoji G. Sutar
(Deceased)
Through Legal Heirs
1 Smt. Sisabai B. Sutar ... Respondents

...

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

**CORAM : K. K. TATED &
SANDEEP K. SHINDE JJ.**
DATE : 8 OCTOBER, 2018

P.C. :

Heard the learned AGP for the Applicants.

2 By this Civil Application, the Applicants are seeking stay of the operation and implementation of the impugned judgment and award dated 13.4.2017 passed by the Reference Court in L.A.R. No.03 of 2006 by which Reference Court awarded enhanced compensation in respect of acquired land to the tune of Rs.2,38,43,596/-.

Shambhavi
Nilesh
Shivgan
Digitally
signed by
Shambhavi
Nilesh
Shivgan
Date:
2018.10.10
11:31:16
+0530

3 The learned AGP submits that in the present matter, the Special Land Acquisition Officer published Notification under Section 4 of the Land Acquisition Act dated 15.4.2000 for acquiring the Respondents/Original Claimant's land for Nageshwari Minor Irrigation Project, Village: Karanjadi, Taluka: Mahad, District: Raigad. He further submits that after following due process of law, the Special Land Acquisition Officer declared award under Section 11 of the Land Acquisition Act on 29.6.2002 and awarded compensation of Rs.8,75,562/-.

4 The learned AGP submits that being aggrieved by the said award, the Respondents-Original Claimants preferred a reference under Section 18 of the Land Acquisition Act for additional compensation. He submits that Reference Court passed impugned judgment and award dated 13.4.2017 and awarded market value of acquired land @ Rs.700/- PSM. Reference Court awarded additional compensation of Rs.2,38,43,596/-

5 The learned AGP submits that at the time of awarding

additional compensation, Reference Court failed to consider evidence on record. He submits that the Special Land Acquisition Officer after considering the relevant sale deeds granted market value of acquired land on the date of issuance of Notification under Section 4 of the said Act. He submits that the Applicant has good chance of success in the present proceedings. The learned AGP submits that if entire amount is recovered by the claimants in Execution Application, nothing will survive in this application. He submits that if they succeed in the present proceeding, then it will be very difficult for them to recover the amount from the claimants. He submits that in the interest of justice, this Hon'ble Court be pleased to stay the operation and implementation of the impugned judgment and award dated 13.4.2017 till the hearing and final disposal of the First Appeal.

6 It is to be noted that this is a money decree and the Applicants have to deposit entire decreetal amount alongwith interest and cost, if any, in the Reference Court.

7 As this order is passed without issuing notice to the Respondents-Original Claimants, liberty granted them to take out appropriate applications, if they so desire, for withdrawal of the amount and that applications will be decided on its own merits.

8 Hence, the following order:

(A) The operation and implementation of the Judgment and Award dated 13.4.2017 passed by the Reference Court in L.A.R.03 of 2006 is stayed till the hearing and final disposal of the First Appeal on condition that the Applicants-State to deposit the entire decretal amount alongwith interest and cost, if any, in Reference Court within a period of 12 weeks from today, failing which Civil Application shall stand dismissed without referring back to the Court.

(B) If the amount is deposited within the stipulated time as stated here-in-above, Reference Court is directed to invest amount in fixed deposit of any nationalised bank initially for a period of one year and same be continued till further orders.

(C) If amount is not deposited within the stipulated time as stated here-in-above, Respondents-Original Claimants are entitled to execute the award according to law.

(D) If amount is deposited within stipulated time as stated here-in-above, liberty granted to the Respondents-Original Claimants, if they so desire, to prefer appropriate applications, for withdrawal of the said amount and such applications will be decided on its own merits.

(E) Civil Application stands disposed of.

(F) No order as to costs.

(SANDEEP K. SHINDE, J.)

(K. K. TATED, J.)