

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION NO.2208/2018

IN

FIRST APPEAL (ST) NO. 32605/2015

**Basavraj
Gurappa
Patil**

State of Maharashtra & Ors.

... Applicants

V/s.

Budhaji Hiru Thakur & Ors.

... Respondents

Digitally signed by
Basavraj Gurappa
Patil

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

Date: 2018.07.10
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**CORAM: K.K. TATED &
B. P. COLABAWALLA, JJ.**

DATED : JULY 4, 2018

P.C. :

1 Heard. By this Civil Application the Applicant is seeking stay of the operation and implementation of the award dated 06.11.2014 passed by the learned Civil Judge, Senior Division, Alibaug at Raigarh in LAR No.362/2000 awarding the additional compensation of Rs.5,85,54,908/-.

2 The learned AGP submits that the Reference Court has erred in coming to the conclusion that the Respondent claimants are entitled to enhanced compensation in respect of the acquired land on the basis of the material placed on record. He submits that the Reference Court ought to have held that the compensation awarded by SLO was according to market value as on the date of the Notification u/s.4 of the Land Acquisition Act, 1894. He submits that if the entire amount is recovered by the claimants by filing Execution Application, nothing will

survive in the present proceedings. He further submits that if they succeed in the present matter then it will be very difficult for them to recover the said amount from the claimants. On the basis of this submission, the learned AGP for the Applicant submits that in the interest of justice, this Hon'ble Court be pleased to stay the operation and implementation of the impugned award till the hearing and final disposal of the First Appeal. He submits that the Applicant has good chance of success in the matter.

3 Considering the submissions made by learned AGP for the Applicant and the impugned award, we are satisfied that the Applicant has made out a case for allowing the present Civil Application. At the same time, they have to deposit the entire awarded amount with interest in the Reference Court within 16 weeks from today.

4 As this order is being passed without issuing notice to the Respondent claimants, it is necessary to grant them liberty to make an Application for withdrawal of the amount which will be decided on merits.

5 Hence, the following order:

a) The Civil Application is allowed in terms of prayer clause (b) on condition that the Applicant to deposit entire awarded amount along with interest and 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 and/or execution and/or implementation of the judgment and award dated 06.11.2014 passed by the Learned Civil Judge, Senior Division, Alibag, District Raigad in LAR No.362/2000 (Old LAR No.94/1989 and 443/1989) till the hearing and final disposal of the above mentioned First Appeal.”

- b) If the awarded 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 said amount 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 further orders.
- d) Liberty granted to the Respondent claimant to make an appropriate Application for withdrawal of the amount which shall be decided on merits.
- e) Civil application stands disposed off accordingly.

(B. P. COLABAWALLA, J.)

(K.K. TATED, J.)