

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

**CIVIL APPLICATION NO.1149 OF 2016
IN
FIRST APPEAL (ST) NO.9784 OF 2015**

The Executive Engineer
Minor Irrigation Division
Sangli, District-Sangli

..Applicant

V/s.

Siddappa Bhimgonda Billur & Ors.

.. Respondents

Mr.D.D. Shinde for the Applicant.

Mr.Yogesh Dabake, AGP for the Respondent-State.

CORAM : K.K. TATED, J.

DATE : 30th JULY 2019

P.C.

1. Heard learned counsel for the parties.

2. By this Civil Application, the applicant acquiring body is seeking stay of the operation and implementation of judgment and award dated 07.07.2014 passed by the 2nd Joint Civil Judge Senior Division, Sangli in Reference application No.16 of 2008 holding that the respondent-claimant are entitled for an additional compensation to the tune of Rs.2,60,788/- towards acquiring land.

3. The learned counsel Mr.Shinde appearing on behalf of the applicant submits that in the present proceedings Special Land Acquisition Officer issued notification dated 29.07.2004 under Section 4 of the Land Acquisition Act (herein after referred as “the said Act”) for acquiring respondent-claimant land for Khojanwadi Minor Irrigation Project. He submits that after following due process of law the Special Land Acquisition Officer declared award dated 31.12.2005 under Section 11 of the said Act and awarded total compensation of Rs.44,550/- for acquired land. He submits that being aggrieved by the said award the respondent-claimant preferred application under Section 18 of the said Act for additional compensation.

4. The learned counsel for the applicant submits that the reference Court, without considering the relevant evidence on record, held that respondent-claimant is entitled for additional compensation in respect of acquired land at the rate of Rs.95,000/- per acre. He submits that they have good chance of success in the present proceeding. He submits that if the entire amount is recovered by the respondent-claimant by filing Execution Application, then nothing will survive in the present proceeding. He submits that in the interest of justice, this Hon'ble Court be pleased

to stay the operation and implementation of the impinged judgment and award till the hearing and final disposal of the First Appeal.

5. It is to be noted that in the present proceeding the reference Court after considering the evidence on record held that the respondent-claimant is entitled additional compensation in respect of the acquiring land. This being a money decree, it is proper to direct the applicant acquiring body to deposit entire amount along with interest in the Reference Court. Hence, following order:-

ORDER

(i) Civil Application allowed in terms of prayer clause (a) which reads thus :-

“(a) pending the hearing and final disposal of the above First Appeal, an operation, execution and implementation of the impugned Judgment and Award dated 07.07.2014 passed by the Learned 02nd Joint Civil Judge, S.D. Sangli in Reference Petition No.16/2008 may kindly be stayed.”

On condition that the applicant to deposit entire amount in Reference Court on or before 08th November 2019 failing which the Civil Application shall stand

dismissed without referring back to the Court.

(ii) If the amount is deposited within stipulated time as stated herein above, the Reference Court is directed to invest the entire amount in Fixed deposits of any Nationalised Bank, initially for the period of one year and same to be continued till further order.

(ii) Liberty granted to the respondent-claimant to take out appropriate application, if they so desire, for withdrawal of the amount and that application will be decided on its own merits.

5. The Civil Application stands disposed of.
6. No order as to costs.

(K.K. TATED, J.)