

Tikam

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

CIVIL APPLICATION No.1102 of 2016
(For Stay)
IN
FIRST APPEAL (ST) No. 9799 OF 2015

The Executive Engineer Minor
Irrigation Department ...Applicant
Vs.

Mr. Basgonda Paragonda Yalmalli and Ors. ...Respondents

Mr. V.S. Tadake i/b. D.D. Shinde for Applicant
Ms. Tanaya Goswami – Assistant Government Pleader for the State

CORAM : SHRI K.K. TATED, J.

DATE : APRIL 16, 2019

P.C.:

1. Heard learned counsel for the parties.
2. By this civil application, the Applicant is seeking stay to the operation and implementation of the impugned judgment and award dated 1st September, 2014 passed by the 2nd Joint Civil Judge, Senior Division, Sangli in Land Acquisition Reference No. 15 of 2008.
3. Learned counsel Mr. V.S. Tadake for Applicant submits that they have good chance of success in the present proceedings. He submits that in the proceedings the Special Land Acquisition Officer issued notification under section 4 of the Land Acquisition Act dated 29th July, 2004 for acquiring the Respondents' - Original Claimants' land for the project of Minor Irrigation Tank at Khojanwadi. After following due procedure of law, the Special Land Acquisition Officer passed Award dated 31st December, 2005 and awarded total compensation of Rs.25,704/- for acquired land.

4. Being aggrieved by the said award, the Respondents – Original Claimants preferred Reference No. 15/2008 of the Land Acquisition Act. He submits that the Reference Court without considering the evidence on record, held that the Respondents- Claimants are entitled for enhancing the compensation in respect of acquired land at the rate of 95,000/- per acre.

5. The learned counsel for the Applicant submits that if the entire amount is recovered by the Respondents-Claimant in the execution application, then nothing will survive in the present proceedings. The learned counsel, after taking instructions, submits that the Applicant is ready and willing to deposit the entire amount on or before 20th July, 2019. 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 1st September, 2014 during pendency and final disposal of the present proceedings.

5. Considering the submissions made by the learned counsel for the Applicant and the averments made in the civil application, I am satisfied that the Applicant has made out a case for allowing the civil application. Hence, following order:

ORDER

(i) During the pendency of the First Appeal, the operation and implementation of the impugned judgment and award dated 1st September, 2014 passed by the 2nd Joint Civil Judge, Senior Division, Sangli in Land Acquisition Reference No. 15 of 2008 is stayed, on a condition that the Applicant to deposit the entire awarded amount in the Reference Court on or before 20th July, 2019, failing which the civil application shall stand dismissed without reference to the Court.

(ii) If the amount is deposited within the stipulated time, the

Reference Court is directed to invest the said amount in the fixed deposit of any nationalized bank initially, for a period of one year and same to be continued till further orders.

- (iii) Liberty granted to the Claimant to make appropriate Application for withdrawal of amount and that Application be decided on its own merits.

Civil application stands disposed off accordingly.

[K.K. TATED, J.]