

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION NO.1151/2016
WITH
FIRST APPEAL (ST)NO.9806/2015

The Executive Engg.
Minor Irrigation Division,
Sangli District-Sangli ... Applicant.
Vs.
Dandappa M. Biradar & Ors....Claimants/Respondent.

Advocate Mr.V.S. Tadake I/b Mr. DD Shinde for applicant.
Mrs. Tanaya Goswami AGP for respondent nos.2 and 3.

CORAM : K.K.TATED, J.
DATED : JULY 8, 2019.

P.C.

Heard learned counsel for applicant.

2 By this civil application, applicant/acquiring body is seeking stay of the judgment and award dated 1.9.2014 passed by reference court in LAR No.19/2008 holding that respondents are entitled sum of Rs.2,33,649/- by way of additional compensation.

3. Learned counsel for applicant submits that in the present proceeding the Special Land Acquisition officer

issued notification u/s 4 of Land Acquisition Act(hereinafter referred as said Act) dated 29.7.2004 for acquiring respondent/claimant's land for Khojanwadi Minor Irrigation Project. He submits that after following due process of law, the Special Land Acquisition Officer passed award and held that respondents/claimants is entitled sum of Rs.44,226/- by way of compensation.

4. Being aggrieved by said award, claimants preferred reference u/s 18 of the said Act on 29.4.2006. In that reference, the learned Civil Judge, Senior Division, Sangli without considering the evidence on record, particularly sale instances, held that respondent is entitled sum of Rs.95000/- per acre in respect of acquired land. He submits that they have good chance of success. He submits that if entire amount is recovered by claimants by filing execution application, then nothing will survive in present proceeding. He submits that pending the hearing and final disposal of the first appeal, operation and implementation of impugned judgment and award be stayed.

4. Considering the submissions made by learned advocate for applicant, averments in application and as reference court awarded additional compensation, I am holding that applicants have made out a case for allowing

application. Hence, following order.

A) Civil application is allowed in terms of prayer clause (a) which is reproduced below , on condition that, applicant to deposit entire awarded amount, alongwith accrued interest, in reference court on or before 21.9.2019 failing which civil application shall stand dismissed without referring back to the court.

a) Pending hearing and final disposal of above first appeal, an operation, execution and implementation of the impugned Judgment and Award dated 1.9.2014 passed by the Learned 2nd Joint Civil Judge, S.D., Sangli in Reference Petition No.19/2008 may kindly be strayed.

B) If entire amount is deposited, reference court is directed to invest the said amount in a Fixed Deposit in any Nationalized bank, initially for a period of one year and thereafter same be continued till further orders.

C) Liberty granted to respondents/claimants if they so desire to prefer appropriate application for withdrawal of amount and that application will be decided on its own merits.

D) Civil application disposed of.

E) No order as to cost.

(K.K.TATED, J.)

