

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION NO.1171/2016
IN
FIRST APPEAL (ST)NO.9811/2015

The Executive Engineer
Minor Irrigation Division, Sangli,
Dist-Sangli Applicant.

Vs.

Basgonda Malkappa Biradar
Through LR's ... Respondents.

Advocate Mr. VS Tadke I/b DD Shinde for applicant.
Advocate Mrs. Tanaya Goswami, AGP for respondent nos.2
and 3.

CORAM : K.K.TATED, J.
DATED : JULY 3, 2019.

P.C.

Heard learned counsel for parties.

2. By this civil application, applicant/acquiring body is seeking stay of operation and implementation of impugned judgment and award dated 10.7.2014 passed by 2nd Joint Civil Judge, Senior Division, Sangli in Reference Petition No.17/2008, holding that respondents/claimants are entitled sum of Rs.3,10,200/- by way of additional compensation.

3. Learned counsel for applicant submits that in the present proceeding Special Land Acquisition Officer issued notification u/s 4 of Land Acquisition Act (hereinafter referred as said Act) for acquiring respondent's land for Khojanwadi Minor Irrigation Project. He submits that after following due process of law Special Land Acquisition Officer declared award u/s 11 of said Act dated 31.12.2005 holding that claimants are entitled compensation of Rs. 1,41,570/- for acquiring land. He submits that being aggrieved by said award, respondent preferred reference u/s 18 of the said Act. In the said reference, the Court awarded enhanced compensation @ Rs. 95,000/- per acre.

4. The learned counsel for applicant submits that the reference court failed to consider the sale instances on record, at the time of fixing compensation. The reference court ought not to have taken into consideration increasing tenancy of the prices of the land at the rate of 20% per year, while determining market value of the land. He submits that they have good chance of success in the present proceeding. He submits that if entire amount is recovered by respondents/claimants by filing execution application, nothing will survive in the first appeal.

5. The laerned counsel for applicant submits that this

court be pleased to stay operation and implementation of order passed by the reference court, till hearing and final disposal of first appeal.

6. Considering the submissions made by learned counsel for applicant, the averments made in civil application, and as reference court awarded additional compensation to the tune of Rs. 4,44,398/-, I am satisfied that applicant has made out a case for following order but, at the same time, they have to deposit entire amount with interest in the reference court.

A) Civil application allowed in terms of prayer clause (a) which is reproduced below, on condition that applicant to deposit the entire awarded amount with interest in the reference court on or before 31.8.2019 failing which civil application shall stand dismissed without referring back to the court. Prayer clause (a) 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 10.7.2014 passed by the Learned 2nd Joint Civil Judge, S.D.Sangli in Reference Petition No.17/2008, may kindly be stayed.”

B) If amount is deposited in stipulated

time, as mentioned above, reference court is directed to invest the entire 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 stands disposed of.

E) No order as to cost.

(K.K.TATED, J.)

