

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION NO.2555/2015
IN
FIRST APPEAL NO.856/2015

The State of Maharashtra Applicant.
Vs.
Janardan R. Powar & Ors. ... Respondents.

AGP Ms Tanaya Goswami for applicant/State.

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

P.C.

Heard learned AGP Ms. Tanaya Goswami for applicant.

2. By this application, applicant is seeking stay of operation and implementation of impugned judgment and award passed by learned Civil Judge, Senior Division, Sindhudurg, Oros, in LAR no.6/1998, dated 25/6/2013 holding that, respondent/claimants are entitled sum of Rs.1,08,415/- by way of additional compensation.

3. Learned AGP Ms.Goswami submits that in the present proceeding the Special Land Acquisition Officer,

issued Notification u/s 4 dated 13.6.1991 for acquiring respondents/claimant's land situated at village Kurli, Tal-Vaibhavwadi, Dist-Sindhudurg for Devgad Irrigation Project. After following due process of law, Special Land Acquisition Officer declared award u/s 11 of the said Act on 30.3.1995. She submits that being aggrieved by the said award, respondents preferred reference u/s 18 of Land Acquisition Act, and claimed enhanced compensation. The reference court without considering the evidence on record held that claimants are entitled additional compensation in respect of acquired land. She submits that at the time of passing impugned judgment and award the reference court mainly relied in previous judgment passed in Land Reference No.4/1989 and 243/97 for deciding market value of acquired land. She submits that they have good chance of success. If stay is not granted and if entire amount is recovered by respondents by filing execution application, then nothing will survive in the present proceeding. She submits that, in the interest of justice, this court be pleased to stay the operation and implementation of impugned judgment and order.

4. It is to be noted that, in the present proceeding, the reference court, at the time of deciding market value, relied

on the Judgment and Award in LAR no.4/1989 and 243/1997 and held that claimants are entitled additional compensation of Rs.106931/-.

5. Considering these facts, I am of the opinion that applicant has made out a case for allowing this application but at the same time, applicant has to deposit entire awarded amount in Reference Court.

6. Hence, the following order.

A) Civil application is allowed in terms of prayer clause (b) which is reproduced as below, on condition that applicant to deposit entire awarded amount in reference court on or before 27.9.2019 failing which civil application shall stand dismissed without referring back to the court.

“b) That this Hon'ble Court be pleased to stay the operation, execution and implementation of the Judgment and Award dated 25.6.2013 passed by the learned Civil Judge, Senior Division, Sindhudurg-Oros in LAR No.6/1998 till the hearing and final disposal of the above mentioned First Appeal.”

B) The Reference Court is directed to invest 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 is allowed accordingly.

E) No order as to cost.

(K.K.TATED, J.)

