

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION NO.4193/2015
IN
FIRST APPEAL NO.1343/2015

The State of Maharashtra Appellant.

Vs.

Santosh P. Sawant
(through LR's)

... Respondents.

AGP, Ms Tanaya Goswami for appellant.

CORAM : K.K.TATED, J.

DATED : JULY 3, 2019.

P.C.

Heard learned AGP Ms Goswami for applicant.

2. By this civil application, the applicant is seeking stay of operation and implementation of impugned judgment and award dated 28.4.2015 passed by the learned Civil Judge, Senior Division, Sindhudurg-Oros in LAR No.15/2006.

3. Learned AGP Ms Goswami for State submits that in the present proceeding Special Land Acquisition Officer issued Notification us 4 of Land Acquisition Act (hereinafter referred as 'said Act') dated 30.12.1999 for acquiring

respondent/claimants land situated at village Shirval, Tal-Kankavali, Dist-Sindhudurg for construction of Security Station of Pucch Canal. She submits that after following due process of law the Special Land Acquisition Officer declared award u/s 11 of the said Act dated 17.1.2003. She submits that against the said award, respondent preferred reference u/s 18 of the said Act on 27.9.2005 and claimed enhanced compensation of Rs.2,23,592/-. Learned AGP submits that reference court without considering evidence on record, relying on earlier judgment in LAR no.13/2006 held that respondent/claimants are entitled compensation in respect of acquired land @ Rs.600 per square ft.

4. Learned AGP for applicant submits that, the reference court failed to consider the sale instances on record. She submits that the reference court erred in coming to the conclusion that, the respondents are entitled to additional compensation in respect of acquired land.

5. Learned AGP Ms Goswami submits that, if entire amount is recovered, by the respondent, by filing execution application, then nothing will survive in the present proceeding. She submits that they have good chance of success. She submits that pending the hearing and final disposal of first appeal, operation and implementation of

impugned judgment and award be stayed.

6. It is to be noted that in the present proceeding reference court awarded additional compensation in favour of the respondent to the tune of Rs.2,03,308/-. At the time of deciding market value of acquired land, reference court relied on previous judgment in LAR No.13/2006 only. There is no discussion whether land involved in previous judgment and in present proceeding, is one of the same in respect of quality and potential of said land.

7. Considering this fact, I am of the opinion that, applicant has made out the case for allowing civil application. But at the same time, they have to deposit the entire awarded amount in reference court.

8 Hence, the following order.

A) Civil application allowed in terms of prayer clause (b) which is reproduced as below, on condition that applicant to deposit entire awarded amount with interest 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 judgment and award dated 28.4.2015 passed by the learned Civil Judge, Senior Division, Sindhudurg in LAR No.15/2006, 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 stands disposed of.

(K.K.TATED, J.)

