

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

CIVIL APPLICATION NO.1208 OF 2019

IN

FIRST APPEAL (ST.) NO.1324 OF 2019

Office Notes, Office Memoranda of Coram, Appearances, court's orders or directions and Registrar's orders	Court's or Judge's orders
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Ms.Tanaya Goswami, A.G.P. for the applicant

CORAM : K. K. TATED, J

DATE : APRIL 4, 2019

P.C.:

. Heard.

2 By this Civil Application, Applicant is seeking stay of the operation and implementation of the impugned judgment and award dated 22.06.2017 passed by learned Civil Judge, Senior Division, Nashik in L.A.R.No.345 of 2008.

3 The learned A.G.P. submits that in the present proceedings, Special Land Acquisition Officer issued notification under section 4 of the Land Acquisition Act dated 9.4.2005 for acquiring Respondent original Claimants land

situated at village Rameshwar, Tal. Devala, District Nashik. She submits that after following due process of law, Special Land Acquisition Officer declared award under section 11 of the said Act on 23.03.2007 and awarded compensation to the tune of Rs.44,899/- to the Claimant.

4 The learned A.G.P. submits that being aggrieved by the said award, Respondent original Claimant preferred Reference under section 18 of the Land Acquisition Act and awarded compensation in respect of acquired land @ Rs.3,50,000/- per hector. The learned A.G.P. submits that, Reference Court without considering the evidence on record particularly sale instance placed on record by them, held that Respondent Claimant is entitled additional compensation in respect of land to the tune of Rs.6,29,035/- by its judgment and award dated 22.6.2017. Hence, Applicant have good chance of success in the present matter.

5 The learned A.G.P. submits that if entire amount is recovered by the Respondent Claimant in execution application, then nothing will survive in the present proceeding. She 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 till the hearing and final disposal of the First Appeal.

6 Considering the fact that the Reference Court awarded additional compensation in respect of acquired land to the tune of Rs.6,29,035/- plus 30% solatium under section 23(2) and 12% component under section 23(1-A) of the Land Acquisition Act, I am satisfied that the Applicant has made out a case for allowing Civil Application. At the same time, Applicant have to deposit entire awarded amount with interest in the Reference Court. Hence, following order is passed :

A. Civil Application is allowed in terms of prayer clause (b) on the condition that Applicant to deposit entire awarded amount with interest and cost in the Reference Court on or before 20.7.2019, failing which Civil Application shall stand dismissed without referring back to the court. Prayer clause (b) reads thus:

"b) that this Hon'ble Court be pleased to stay the execution, operation and implementation of the Judgment and Award dated 22.06.2017 passed by

Learned Civil Judge, Senior Division,
Nashik, in L.A.R. No.345 of 2008, till the
hearing and final disposal of the above
mentioned First Appeal."

B. If amount is deposited within stipulated
time as stated hereinabove, Reference Court is
directed to invest entire amount in fixed
deposit of any nationalized bank initially for a
period of one year and same be continued till
further orders.

C. Liberty granted to the Respondent
original Claimant to prefer appropriate
application, if they so desire, and that be
decided on its own merits.

D. Civil Application stand disposed of
accordingly.

E. No order as to costs.

(K.K.TATED, J.)