

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

Civil Application No.40/2017
in
First Appeal (ST) No.1619/2016

The State of Maharashtra Applicant

Vs.

Smt. Janubai Gana Gondhali (Deceased)
and others Respondents

Ms. Tanaya Goswami, AGP for the Applicant

**CORAM: K.K.TATED &
SARANG V. KOTWAL,JJ.**

DATED : NOVEMBER 28, 2019

P.C.

1 Heard. By this Civil Application the Applicant is seeking stay to the operation and implementation of the judgment and award dated 30.12.2014 passed by the Civil Judge, Senior Division, Panvel in LAR No.33/2002 holding that the Respondent-Claimants are entitled to additional compensation of Rs.2,27,53,236/- in respect of the acquired land including 30% solatium and 12% interest.

2 The learned AGP submits that in the present proceeding the Special Land Acquisition Officer issued Notification dated 24.09.1986 u/s.4 of the Land Acquisition Act, 1894 for acquiring the Respondent's land situated at

village Wadghar, Tq. Panvel, Dist. Raigad for New Bombay Project. She submits that after following due process of law, the Special Land Acquisition Officer passed Award dated 07.03.1989 u/s.11 of the said Act and awarded compensation in respect of the acquired land. She submits that being aggrieved by the said Award, the Respondent-Claimants preferred Reference u/s.18 of the said Act claiming additional compensation @ Rs.2000/- PSM.

3 The learned AGP submits that the Reference Court without considering the evidence on record and only on the basis of the previous judgment in LARs from same locality held that the Respondent-Claimants are entitled to compensation in respect of the acquired land @ Rs.889/- PSM. She submits that the compensation awarded by the Reference Court is on higher side. She submits that they have good chance of success.

4 The learned AGP submits that pending the hearing and final disposal of the First Appeal this Hon'ble Court be pleased to stay the operation and implementation of the impugned judgment and award. She submits that if entire amount is recovered by the Respondent-Claimants by filing Execution Application, nothing will survive in the present proceedings.

5 Considering the submissions made by the learned AGP and as the compensation awarded by the Reference Court is on higher side, we are satisfied that the Applicant has made out a case for allowing the Civil Application.

6 Hence, following order is passed:

a. The Civil Application is allowed in terms of prayer clause (b) subject to the Applicant depositing the entire awarded amount along with interest and costs in the Reference Court on or before 29.02.2020, failing which the Civil Application shall stand dismissed without further reference to the court. Prayer clause (b) reads thus:

“(b) that this Hon’ble Court be pleased to stay the operation, execution and implementation of the judgment and award dated 30.12.2014 passed by the Learned Civil Judge, Senior Division, Panvel, District Raigad in L.A.R.No.33/2002, till hearing and final disposal of the above mentioned First Appeal.”

b. The Reference Court is directed to invest the award amount in a fixed deposit account of any Nationalized Bank, initially for a period of one year and same shall be renewed from time to time till hearing and final disposal of the appeal.

c. Liberty granted to the claimants to prefer an appropriate Application for withdrawal of amount, if they so desire, which will be decided on its own merits.

d. The Civil Application stands disposed of accordingly.

e. No order as to costs.

(SARANG V. KOTWAL, J.)

(K.K.TATED, J.)