

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

**CIVIL APPLICATION NO. 2365 OF 2019
IN
FIRST APPEAL (ST.) NO. 1573 OF 2019**

The State of Maharashtra ,..... Applicant.
Vs.

Yamuna Kashinath Thakur & Ors. Respondents.

Mr. A. R. Patil for the Applicant.

.....

.....

**CORAM : K.K.TATED, J.
DATED : JULY 17, 2019**

P.C.

- 1 Heard Learned Counsel for the Applicant.
2. By this Civil Application, the Applicant is seeking stay of operation and implementation of the Judgment and award dated 26th July, 2017 passed by the Learned Civil Judge, Senior Division, Alibag, Raigad in A. R. No. 175 of 2002 holding that the Respondents/Original Claimants are entitled to additional compensation of Rs. 7,48,327/- towards acquiring land.
3. The Learned AGP for the Applicant submits that in the present proceeding the Special Land Acquisition Officer published notification under Section 4 of the Land Acquisition Act (Referred as a said Act) on 22nd July, 1999 for acquiring Respondents/Original Claimant's land from village Jasai, Tal. Uran, Dist. Raigad

for Belapur Jasai Railway. He submits that after following due process of law the Special Land Acquisition Officer passed award dated 31st May, 2000 under Section 11 of the said Act and awarded compensation of Rs. 5,763/- in respect of acquiring land to the Respondents/Original Claimants.

4. The Learned AGP submits that, being aggrieved by the award passed by the Special Land Acquisition Officer, the Respondents/Original Claimants preferred reference under Section 18 of the said act and prayed compensation @ Rs. 5,000/- per Sq.Metr. towards the market value. He submits that the Reference Court without considering the evidence on record, particularly the sale deeds held that the Respondents/Original Claimants are entitled compensation Rs. 7,48,327/-.

5. The Learned AGP submits that the compensation awarded by the Reference Court is on higher side. He submits that they have good chance of success in the present proceeding. He submits that pending the hearing and final disposal of the First Appeal, operation and impementation of the impugned Judgment and award be stayed. If the entire amount is recovered by the Respondents/Original Claimants in execution application, then nothing will survive in the present proceeding.

6. Considering the submission made by the learned counsel for the Applicant and the additional compensation awarded by the Reference Court, I am satisfied

that the Applicant has made out case for allowing this Civil Application. Hence, the following order:

- a. Civil Application is allowed in terms of prayer clause (b) which reads thus:

“b. that this Honb'el Court be pleased to stay the operation and/or execution and/or implementation of the Judgment and Award dated 26.07.2017 passed by the Learned Civil Judge, Senior Division, Alibag, Raigad in L.A.R. No. 175 of 2002, till the hearing and final disposal of the above mentioned First Appeal;”

on a condition that the Applicant to deposit the entire awarded amount with accrued interest in Reference Court on or before 27th September, 2019, failing which Civil Application shall stand dismissed without further reference to the Court.

- b. If amount is deposited within stipulated time as stated hereinabove Reference Court is directed to invest the entire award amount in a fixed deposit account of any Nationalized Bank, initially for a period of one year and same to be continued till further orders.
- c. Liberty granted to the Respondents/Original claimants to prefer an appropriate Application for withdrawal of amount, if they so desire, which will be decided on its own merits

(K.K.TATED, J.)