

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

Civil Application No. 516/2016
in
First Appeal (ST) No. 1908/2016

Office Notes, Office Memoranda of Coram, appearances, Court's orders or directions and Registrar's orders	Court's or Judge's orders.
Mrs. Tanaya Goswami, AGP for the Applicant	

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

P.C.

Pursuant to the praecipe filed by the advocate for the Applicant, the matter is taken on production board.

2 The learned AGP submits that they have already given notice to other side. In spite of that none appeared for them.

3 By this Civil Application, the Applicant is seeking stay to the operation and implementation of the judgment and award dated 07.10.2014 passed by the 2nd Jt. Civil Judge, Senior Division, Alibaug in LAR No.834/2000. The learned AGP submits that the Respondent - claimant has filed Darkhast Application No.71/2019 for

recovery of the amount. She submits that if the entire amount is recovered in the Execution Application, nothing will survive in the present proceedings. She submits that the Applicant has good chance of success.

4 The learned AGP submits that in the present proceedings, Notification u/s.4 of the Land Acquisition Act, 1894 was issued on 24.09.1986 for acquiring the Respondent's land situated at village Karal, Tq. Uran, Dist. Raigad for New Bombay project. She submits that after following due process of law, the SLO issued Notification u/s.11 of the said Act on 22.11.1990 and awarded compensation of Rs.19853/-.

5 Being aggrieved by the award passed by the Special Land Acquisition Officer, the Respondent - claimant filed Reference u/s.18 of the said Act and claimed additional compensation in respect of the acquired land @ Rs.1000/- PSM. She submits that, the Reference Court, without considering the evidence on record and the earlier sale instances, held that the Respondent - claimant is entitled to sum of Rs.5,46,147/- as additional compensation. 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 passed by the Reference Court u/s18 of the said Act, pending the hearing and final disposal of the First Appeal.

6 Considering the submissions made by the learned counsel for the Applicant and as the Reference Court has awarded additional compensation of Rs.5,46,147/- in favour of the Respondent - claimant, I am satisfied that the Applicant has made out a case for allowing the Civil Application. At the same time, the Applicant has to deposit the entire awarded amount with interest in the Reference Court on or before 31.07.2019, failing which the Civil Application shall stand dismissed without further reference to the court.

7 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 with interest in the Reference Court on or before 31.07.2019, 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 07.10.2014 passed by the learned 2nd Jt. Civil Judge, Senior Division, Alibaug, Dist. Raigad in LAR No.834/2000 till the hearing and final disposal of the above mentioned First Appeal.”

b. The Tribunal is directed to invest the awarded amount in a fixed deposit of any Nationalized Bank, initially for a period of one year and same shall be renewed from time to time till further orders.

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. Civil Application stands disposed of accordingly.

(K.K.TATED, J.)