

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION NO.919 OF 2016
IN
FIRST APPEAL (ST) NO.2498 OF 2011

The State of Maharashtra and Ors.	.. Applicants
Versus	
Bhagvat Ganpati Aaglave and Anr.	.. Respondents

Mrs. Tanaya Goswami, AGP for applicant/State.

CORAM: K.K. TATED, J.

DATED : MARCH 14, 2019.

P.C. :

1. Heard learned AGP for applicant.
2. By this civil application, applicant is seeking stay of the operation and implementation of the impugned judgment and award passed by reference Court in Land Acquisition Reference No. 555 of 2002.
3. The learned AGP appearing on behalf of applicant submits that in the present proceedings, Special Land Acquisition Officer issued notification under Section 4 of the Land Acquisition Act, acquiring respondent/original claimants land for the purpose of Pimpalgaon-Dhale Mumbai project. She submits that after following due process of law the Special Land Acquisition Officer passed award and awarded compensation of Rs.1,16,626/-. She submits that being aggrieved by the said award,

respondent/original claimants preferred reference under Section 18 of the Land Acquisition Act. She submits that the reference Court awarded additional compensation of Rs.39,712/- towards the land value. She submits that at the time of awarding the additional compensation in favour of the respondent/original claimant, the reference Court only relied on earlier judgments in Land Acquisition Reference without considering the sale instances on record. She submits that they have good chance of success in the proceedings. She submits that if the stay is not granted and entire amount is recovered by the respondent/original claimants in Execution Application, then nothing will survive in the present First Appeal.

4. Considering the submissions made by learned Counsel for the applicant, averments made in civil application, I am satisfied that the applicant has made out case for allowing this Civil Application. But at the same time applicant have to deposit entire awarded amount before the reference Court. Hence, following order :-

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

“(b) that this Hon’ble Court be pleased to stay the execution and/or implementation and/or operation of the Judgment and Award passed by Reference Court in Land Acquisition Reference No. 555 of 2002 till the hearing and final disposal of the above mentioned First Appeal.”

on condition that applicant to deposit entire awarded amount before Reference Court on or before 31.07.2019, failing which Civil Application shall stand dismissed without reference to the Court.

b) If amount is deposited within time, as stated above, Reference Court is directed to invest the the said amount in a fixed deposit account of any Nationalized Bank, initially for a period of one year and same shall 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 .

d) Civil Application stands disposed of accordingly.

e) No order as to costs.

(K. K. TATED, J.)