

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

CIVIL APPLICATION NO.797 OF 2018

IN

FIRST APPEAL (ST.) NO.2478 OF 2018

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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Mr.A.R.Patil, A.G.P. for the applicant

Mr.Anil Ahuja for the respondent

**CORAM : K. K. TATED, J
DATE : APRIL 15, 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 18.12.2014 passed by learned Joint Civil Judge, Senior Division, Nashik in L.A.R.No.148 of 2006.

3 The learned A.G.P. for the Applicant submits that in the present proceedings, Special Land Acquisition Officer issued

notification under section 4 of the Land Acquisition Act dated 17.2.2003 for acquiring Respondent original claimants land from village Pawarpada, Taluka Peth, District Nashik for the purpose of submergence area of Main Sandva Dam. He submits that after following due process of law, Special Land Acquisition Officer passed award dated 27.12.2005 under section 11 of the said Act, and awarded sum of Rs.84,942/- towards the compensation.

Being aggrieved by the said award, Respondent original Claimant preferred Reference under section 18 of the Land Acquisition Act. He submits that in the said Reference, Reference Court awarded sum of Rs.5,24,442/- towards the land including 12% component and 30% solatium as well as interest. He submits that if entire amount is recovered by the claimants by filing execution application, then nothing will survive in the present proceeding. He submits that Applicant has good chance of success in the present proceedings.

4 The learned A.G.P. submits that during the pendency of the present proceeding, operation and implementation of the impugned judgment and award dated 18.12.2014 be stayed.

5 On the other hand, the learned counsel for the Respondent original Claimant vehemently opposed the present Civil Application. He submits that there was delay in filing the First Appeal. Till today, applicant has not deposited entire amount in the Reference Court. He submits that if amount is deposited by the Applicant then Respondent may be permitted to prefer appropriate Application for withdrawal of the said amount.

6 Considering the submissions made by the learned A.G.P. for the applicant, the averments made in Civil Application, I am satisfied that the Applicant has made out a case for allowing the Civil Application. Hence, following order is passed:

A. Civil Application is allowed in terms of prayer clause (b) on condition that Applicant to deposit entire awarded amount along with interest in the Reference Court on or before 21.6.2019, 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 execution, operation and implementation of the

Judgement and Award dated 18.12.2014 passed by the Learned Joint Civil Judge, Senior Division, Nashik in L.A.R. No.148 of 2006, till the hearing and final disposal of the above mentioned First Appeal."

B. If amount is deposited within stipulated time as stated hereinabove, the Tribunal is directed to invest the entire 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 Applicant to make appropriate Application for withdrawal of amount and that Application be decided on its own merits.

D. Civil application stands disposed off accordingly.

E. No order as to costs.

(K.K.TATED, J.)