

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

Civil Application No.2428/2017
in
First Appeal (ST) No.2556/2017

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, AGP for the Applicant

CORAM : K.K.TATED, J.
DATED : JUNE 28, 2019

P.C.

1 Pursuant to the praecipe filed by the learned AGP, the matter is taken on production board.

2 The learned AGP submits that the Respondent-Claimant has filed Execution Application to recover the amount as per the impugned judgment and award dated 06.05.2016 passed by the Civil Judge, Senior Division, Alibaug in LAR No.257/2014. Hence, there is urgency.

3 The learned AGP submits that if the entire amount is recovered by the Respondent / claimant in the Execution Application, then nothing will survive in the present proceedings. He submits that

the Special Land Acquisition Officer had issued Notification u/s.4 of the Land Acquisition Act, 1894 on 25.07.1991 for acquiring the Respondent-Claimant's land from village Shemtikhar, Tq. Uran, Dist. Raigad for new Bombay Project. He submits that after following due process of law, the Special Land Acquisition Officer vide Award dated 03.09.1994 awarded sum of Rs.95,120/- by way of compensation. He submits that thereafter the Respondent-Claimant has filed application u/s.28-A of the said Act for additional compensation on the basis of the judgment in LAR No.58/1996. He submits that the Reference Court in Reference application u/s.28-A(3) of the said Act has awarded sum of Rs.71,72,380/- by way of additional compensation in respect of the acquired land.

4 The learned AGP submits that at the time of awarding enhanced compensation in respect of the acquired land, the Reference Court has not considered the sale instances on record. He submits that they have good chance of success in the matter. He 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 till hearing and final disposal of the First Appeal.

5 Considering the submissions made by the learned counsel for the Applicant and the averments made in the Civil Application and as the additional compensation awarded by the Reference Court is on higher side, I am 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 Tribunal on or before 31.08.2019, 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 judgment and award dated 06.05.2016 passed by the learned

*Civil Judge, Senior Division, Alibag
in LAR No.257/2014 till the
hearing and final disposal of the
abovementioned First Appeal."*

- b. The Tribunal is directed to invest the awarded 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. No order as to costs.

(K.K.TATED, J.)