

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION No. 2140 OF 2019
IN
FIRST APPEAL (ST) No. 3696 OF 2013

The State of Maharashtra
(through the Special Land
Acquisition Officer) ..Applicant
Vs.
Balkrushna Bhagujji Ghule ..Respondent

Mr. A.R. Patil -AGP for the Applicant

CORAM: K.K. TATED, J.

DATED : JUNE 26, 2019

P.C. :

1. Heard learned AGP Mr. A.R. Patil for the Applicant.
2. By this civil application, the Applicant is seeking stay of the operation and implementation of the judgment and award dated 27th February, 2012 passed by the Learned Civil Judge, Senior Division, Niphad, Dist. Nashik in L.A.R. No. 12 of 2005 (Old L.A.R.No.25 of 2001)
3. The learned AGP Mr. A.R. Patil for the Applicant submits that in the present proceeding, the Reference Court awarded

additional compensation of Rs.1,96,054/- in favour of the Respondent. He submits that in the present proceeding, Special Land Acquisition Officer issued Notification under Section 4 of the Land Acquisition Act on 18th July, 1996 for acquiring Respondent's land being land Gat No. 50, area 0 H. 73 R + Potkharaba 0 H. 03 R situated at Village Shivre, Taluka Chandwad, Dist. Nashik for construction of Punegaon Left Bank Canal. He submits that after following due process of law, the Special Land Acquisition Officer declared award dated 14th January, 2000 under Section 11 of the Land Acquisition Act and awarded compensation of Rs.43,700/- per hectare.

4. Being aggrieved by the said award, the Respondent preferred Reference under Section 18 of the Land Acquisition Act. The learned AGP submits that the Reference Court, without considering the evidence on record, held that the Respondent/ Original Claimant is entitled compensation in respect of acquired land @ Rs.3,00,000/- per hectare by the judgment and award dated 27th December, 2012.

5. The learned AGP for the Applicant submits

that they have good chance of success in the present proceeding. He submits that if the entire awarded amount is recovered by the Respondent by filing execution application, then nothing will survive in the present First Appeal. 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 dated 27th February, 2012.

6. Considering the submissions made by the learned AGP for the Applicant, the averments made in the civil application and as the Reference Court awarded additional compensation of Rs.1,96,054/- in respect of the acquired land with statutory benefits, I am satisfied that the Applicant has made out a case for allowing this civil application, but at the same time, they have to deposit the entire awarded amount in the Reference Court.

7. Hence, following order:

(a) Civil Application is allowed in terms of prayer clause (b), on condition that the Applicant to deposit the entire awarded amount with interest in Reference Court on or before

27th September, 2019 failing which civil application shall stand dismissed without referring back 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 27.02.2012 passed by the Learned Civil Judge, Senior Division, Niphad, District Nashik, in L.A.R. No. 12 of 2005 (Old L.A.R. No. 25 of 2001), till the hearing and final disposal of the above mentioned First Appeal."

(b) If the entire awarded amount is deposited by the Applicant within stipulated time as stated hereinabove, the Reference Court to invest the same in fixed deposit of any Nationalized Bank, initially, for a period of one year and same to be continued till further orders.

(c) Liberty is granted to the Respondent/Original Claimant, if he so desires, to prefer appropriate application for withdrawal of the awarded amount and that application be decided on its own merits.

(d) Civil Application stands disposed of accordingly.

(e) No order as to costs.

(K. K. TATED, J.)