

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE CIVIL JURISDICTION
CIVIL APPLICATION NO.1125 OF 2019
(for stay)
in
FIRST APPEAL (ST) NO.3088 of 2019**

1. The State of Maharashtra & anr .. Applicants
vs
Suryabhan Sahadu Patangade Respondents

Mr.A.R.Patil Assistant Government Pleader Applicants

CORAM : K.K.TATED, J

DATE : 29th MARCH, 2019

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Heard learned Assistant Government Pleader for the Applicants.

2. By this Civil Application, the Applicant is seeking stay of the operation and implementation of the impugned Judgment and Award dated 22.6.2017 passed by the learned Civil Judge Senior Division, Nasik in Land Acquisition Reference No.351 of 2018 awarding compensation in respect of the acquired land.

3. Learned Assistant Government Pleader submits that in the present proceedings the Special Land Acquisition Officer issued a notification dated 9.4.2007 under section 4 of the Land Acquisition Act, 1888 for acquiring the respondent/original claimant's land situated at village Rameshwar, Taluka Devala District Nasik for Chankapur Right Canal. After hearing the parties the Special Land Acquisition Officer passed an award dated 6.3.2007 under section 11 of the Land Acquisition

Act, 1888 and awarded compensation amount of Rs.56,872/-. He submits that being aggrieved by the said Award, the Respondent/claimant preferred a reference under section 18 of the Land Acquisition Act, 1888 claiming enhanced compensation in respect of the acquired land at Rs.3,50,000/- per hectare. The Reference Court without considering the evidence on record and sale instances placed on record, held that the respondents/claimants are entitled to a sum of Rs.10,23,949/- as additional compensation in respect of the acquired land.

4. The learned Assistant Government Pleader submits that if the entire amount is recovered by the respondents/claimants 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 Judgment and Award passed by the Reference Court.

5. Considering the submissions made by the learned Assistant Government Pleader and the amount awarded by the Reference Court to the tune of Rs.10,23,949/- I am satisfied that the applicant has made out a case for allowing the application but, at the same time has to deposit the entire awarded amount with interest in the Reference Court. Hence, the following order :

ORDER

(i) 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, operation and implementation of the Judgment and Award dated 22.6.2017 passed by the learned Civil Judge, Senior Division, Nasik in L.A.R. No.351 of 2008, till the hearing and final disposal of the above mentioned First Appeal.”

With a condition that the Applicant to deposit the entire awarded amount in the Reference Court on or before 29.6.2019 failing which the Civil Application shall stand dismissed without reference to the Court.

(ii) If the amount is deposited within the stipulated time as stated hereinabove, the Reference Court is directed to invest the said amount in Fixed Deposit of any nationalized bank for a period of one year and same to be continued till further orders.

(iii) Liberty is granted to the respondents/claimants to prefer an application for withdrawal of the amount and that would be decided on its own merits.

(iv) Civil Application stands disposed of accordingly.

(v) No order as to costs.

{K.K.TATED, J}