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IN THE HIGH COURT OF JUDICATURE AT BOMBAY**CIVIL APPELLATE JURISDICTION****CIVIL APPLICATION NO. 1155 OF 2019****IN****FIRST APPEAL (ST) NO. 3093 OF 2019**

The State of Maharashtra and anotherApplicants

V/s.

Murlidhar Rajaram AherraoRespondent

Mr. A. R. Patil AGP for the applicants

CORAM : K. K. TATED, J.

DATE : APRIL 2, 2019.

P.C.

Heard the learned AGP for the applicants.

2 By this Civil Application, applicant is seeking stay of operation and implementation of Judgment and Award dated 23/06/2017 passed by the learned Civil Judge, Senior Division, Nashik in LAR No. 352 of 2008 holding that respondents/original claimants are entitled for additional compensation for the land to the tune of Rs.

6,03,457/-.

3 The learned counsel for the applicant submits that if the entire amount is recovered by the respondent by filing execution application, then nothing will survive in the present First Appeal. He further submits that at the time of awarding enhanced compensation, Reference Court failed to consider evidence on record. He submits that they have good chance of success in First Appeal. He submits that in the interest of justice, pending the hearing and final disposal of First Appeal, this Hon'ble Court be pleased to stay the operation and implementation of the impugned Judgment and Award.

4 It is to be noted that in the present proceedings, reference Court has directed the applicant to pay additional compensation under section 23 (1A) and 23(2) of the Land Acquisition Act. This being a money decree, stay can be granted only on depositing of the entire awarded amount. Hence, following order:

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

“(b) this Hon’ble Court be pleased to stay the execution, operation and implementation of the Judgment and Award dated 23.06.2017 passed by the Learned Civil Judge, Senior Division, Nashik in L.A.R. No. 352 of 2008, till the hearing and final disposal of the abovementioned First Appeal”.

(II) Applicant to deposit entire awarded amount alongwith interest and cost, if any, in Reference Court on or before 21/07/2019, failing which Civil Application shall stand dismissed without referring back to the Court.

(III) If amount is deposited within the stipulated time as stated herein above, Reference Court is directed the invest the said amount in fixed deposit of any nationalized bank, initially for a period of one year and same to be continued till further orders.

(IV) Liberty granted to the respondent-claimant, if they so desire, to prefer appropriate application for withdrawal of the amount and that

application be decided on its own merits.

(V) Civil Application stands disposed of.

(VI) No order as to costs.

[K. K. TATED, J.]