

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION NO.315 OF 2016
IN
FIRST APPEAL (ST) NO.3573 OF 2015

The Administration City and
Industrial Development Corporation
of Maharashtra Ltd. .. Applicant
Versus
Shri. Namdeo Nabhaji Mahale and Anr. .. Respondents

Mr. A.M. Kulkarni for applicant.

CORAM: K.K. TATED, J.

DATED : MARCH 14, 2019.

P.C. :

1. Heard learned Counsel for the applicant.
2. By this civil application, applicant is seeking stay of the operation and implementation of the judgment and award dated 07.05.2013 passed by Reference Court in Land Acquisition Reference No. 304 of 1989 awarding enhanced compensation in respect of acquired land.
3. The learned Counsel for the applicant submits that after following due process of law, the Special Land Acquisition Officer passed an Award dated 17.02.1986 and awarded compensation in respect of acquired land at the rate of Rs.6/- per Sq.Mtr.

4. Being aggrieved by the said award, the respondent/original claimant preferred reference under Section 18 of the Land Acquisition Act and claimed compensation at the rate of Rs.100/- per Sq. Mtr. He submits that reference Court awarded compensation in respect of acquired lane at the rate of Rs.53.55/- Sq. Mtr. He submits that at the time of awarding enhanced compensation, reference Court has failed to consider the sale instances placed on record.

5. The learned Counsel for the applicant submits that they have good chance of success in the present proceedings. He submits that if stay is not granted and if entire awarded amount is recovered by respondent/original claimant in the Execution Application, then it will be very difficult for them to recover the same, if they succeeds in the present proceedings.

6. Considering the submissions made by learned Counsel for the applicant, averments made in civil application, I am satisfied that the applicant has made out case for allowing this Civil Application. But at the same time applicant have to deposit the entire awarded amount including interest in the trial Court. Hence, following order :-

a) Operation and implementation of impugned judgment and award dated 07.05.2013 passed by learned Joint Civil Judge, Senior Division, Nashik in Land Acquisition Reference No. 304 of 1989 is stayed till the hearing and final disposal of the First Appeal, on condition that applicant to deposit entire awarded amount in reference Court on or before 14.06.2019, failing which Civil

Application shall stand dismissed without reference to the Court.

b) If amount is deposited within stipulated within stipulated time, as stated above, the reference Court is directed to invest the said amount in a fixed deposit account of any Nationalized Bank, initially for a period of one year and same shall be continued till further orders.

c) Liberty granted to the respondent/original claimant to prefer an appropriate Application for withdrawal of amount, if they so desire, which will be decided on its own merits

d) Civil Application stands disposed of accordingly.

e) No order as to costs.

(K. K. TATED, J.)