

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

Civil Application No.1703/2019

in

First Appeal (ST) No.4779/2019

Office Notes, Office
Memoranda of Coram,
appearances, Court's
orders or directions
and Registrar's orders

Court's or Judge's orders.

Mrs. Tanaya Goswami AGP for the
Applicant

CORAM : K.K.TATED.J.

DATED : JUNE 24, 2019

P.C.

1 Heard. This Application is for stay to the operation and implementation of the judgment and award dated 11.08.2017 passed by the Civil Judge, Senior Division, Raigad at Alibaug holding that the Respondent-Claimants are entitled to sum of Rs.36,95,292/- by way of additional compensation a/w. 30% solatium and 12% interest component u/s.23(1A) and 23(2) of the Land Acquisition Act, 1894.

2 The learned AGP submits that in the present proceedings the Special Land Acquisition Officer issued Notification u/s.4 of the said Act on 16.11.2006 for acquiring Respondent's claimants land from village

Amboli, Tq. Murud, Dist. Raigad for Amboli Small Irrigation Project. She submits that after following due process of law, the Special Land Acquisition Officer passed the award dated 15.01.2009 and awarded compensation in respect of the acquired land to the tune of Rs.4,04,708/- to the Respondent-Claimant. She submits that the notice u/s.12(2) of the said Act was duly served on Respondent claimant on 22.03.2009. She submits that being aggrieved by the said award, the Respondent-Claimant filed reference u/s.18 of the said act on 28.04.2009 and claimed enhanced compensation in respect of the acquired land @ Rs.1000/- PSM.

3 The learned AGP submits that without considering the evidence on record and particularly the sale instance, the Reference Court erred in coming to the conclusion that the Respondent-Claimants are entitled to compensation @ Rs.400/- PSM. She submits that they have good chance of success in the matter. She submits that, if entire amount is recovered by the Respondents, by filing execution application, then nothing will survive in this matter. She submits that during pendency of the First Appeal, the

operation and implementation of the impugned judgment and award be stayed.

4 In the present proceedings the Reference Court awarded additional compensation of Rs.36,95,292/- in respect of the acquired land in addition to 12% interest component u/s.23(1A) and 30% solatium u/s.23(2) of the Land Acquisition Act, 1894.

5 Considering the submissions made by the learned AGP and the averments made in the Civil Application, 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 27.09.2019, 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 11.08.2017 passed by the learned Civil Judge, Senior Division, Alibaug-Raigad in LAR No.43/2009 (Old LAR No.122/2009) 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 further orders.

c. Liberty granted to the claimants to prefer an appropriate Application for withdrawal of further 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.)