

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

**CIVIL APPLICATION NO.3670 OF 2015
IN
FIRST APPEAL NO.1175 OF 2015**

The State of Maharashtra ..Appellant
V/s.
Shri.Avinash Prakash Pisal .. Respondent

Mr.A.R. Patil, AGP for the Appellant.

Mr.G.M. Savagave for the Respondent.

CORAM : K.K. TATED, J.

DATE : 30th JULY 2019

P.C.

1. Heard learned counsel for the parties.
2. By this Civil Application, applicant is seeking stay of the operation and implementation of the impugned judgment and award dated 26.10.2010 passed by the Civil Judge Senior Division, Barshi, District-Solapur in LAR No.799 of 2002.
3. The learned AGP for the applicant submits that they have a good chance of success in the present matter. He submits that is entire amount is recovered by the respondent-claimant by filing Civil Application then nothing will survive in the present

proceeding. He submits that the pending the hearing and final disposal of the First Appeal, operation and implementation of the impugned judgment and award be stayed.

4. On the other hand learned counsel Mr.G.M. Savagave appearing on behalf of the respondent-claimant vehemently opposed the present Civil Application. He submits that the reference Court after considering the evidence on record, the held that the claimants are entitled for additional compensation. He submits that this is a money decree against the applicant, hence they have to deposit entire amount with interest.

5. Considering the submissions made by the learned counsel for the applicant and the impugned judgment and award, I am satisfied that the applicant has made out case, for allowing the Civil Application, but at the same time, they have to deposit the entire awarded amount with interest in reference Court. Hence, 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 operation and/or execution and/or

implementation of the judgment and award dated 26.10.2010 passed by the Learned Civil Judge, Senior Division, Barshi, District-Solapur in LAR No.799 of 2002, till the hearing and final disposal of the above-mentioned First Appeal.”

On condition that the applicant to deposit the entire awarded amount with interest in reference Court on or before 05th October 2019 failing which the Civil Application shall stand dismissed without referring back to the Court.

(ii) If the amount is deposited within stipulated time as stated here in above, the respondent-claimants are permitted to withdraw 50% amount with interest without furnishing any security and 50% amount by furnishing personal bond to the reference Court subject to outcome of the First Appeal.

(iii) If the amount is not withdrawn on or before 30th November 2019, the reference Court is directed to invest the said amount in a fixed deposit of any Nationalized Bank, initially for a period of one year and same shall be renewed from time to time till hearing and final disposal of the appeal.

6. Civil Application is disposed of accordingly. No order as to costs.

(K.K. TATED, J.)