

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

CIVIL APPLICATION NO.3239 OF 2018

IN

FIRST APPEAL NO.980 OF 2018

Office Notes, Office Memoranda of Coram, Appearances, court's orders or directions and Registrar's orders	Court's or Judge's orders
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Mr.Yogesh Dabake, A.G.P for the appellant

**CORAM : K. K. TATED, J
DATE : APRIL 10, 2019**

P.C.:

. Heard.

2 By this Civil Application, Applicant is seeking stay of the operation and implementation of the impugned judgment and award dated 22.10.2016 passed by learned Civil Judge, Senior Division, Alibag, District Raigad in L.A.R. No.196 of 2014 holding that Respondents original Claimants are entitled additional compensation.

3 The learned A.G.P. for the applicant submits that in the present proceeding, Special Land Acquisition Officer issued notification

under section 4 of the Land Acquisition Act dated 24.09.1986 for acquiring Respondent original Claimants land from village Bokadvira, Tal.Uran, District Raigad. After following due process of law, Special Land Acquisition Officer passed award dated 11.09.1989 and awarded compensation, including statutory benefit as per section 23(1A), section 23(2) and 28 of the Land Acquisition Act. He submits that being aggrieved by the said award, Respondent original Claimant preferred Reference under section 18 of the Land Acquisition Act and claimed additional compensation in respect of acquired land. He submits that Reference Court by impugned judgment and award dated 22.10.2016 without considering the sale instance on record held that Respondent original Claimant are entitled compensation in respect of acquired land @ Rs.600/- p.s.m. He submits that Applicant has good chance of success in the present proceeding.

4 The learned A.G.P. for the Applicant submits that in the interest of justice, this Hon'ble court be pleased to stay the operation and implementation of the impugned judgment and award passed by Reference Court. He submits that if entire amount is

recovered by the Respondent Claimant by filing execution application then nothing will survive in the present proceeding.

5 Considering the submissions made by the learned A.G.P. for the Applicant and as additional compensation awarded by the Reference Court is to the tune of Rs.16,68,572/-, I am satisfied that the applicant has made out a case for allowing Civil Application. Hence, following order is passed :

A) Civil Application is allowed in terms of prayer clause (b) on the condition that Applicant to deposit entire awarded amount with interest and cost in the Reference Court on or before 31.7.2019, failing which Civil Application shall stand dismissed without referring back to the court. Prayer clause (b) reads thus:

"b) that this Hon'ble Court be pleased to stay the operation, execution and implementation of the Judgment and Award dated 22.10.2016 passed by the Learned, 2nd Joint Civil Judge, Senior Division, Alibag, District Raigad in L.A.R. No.196 of 2014, till the hearing and final disposal of the above mentioned First

Appeal."

- B) Reference Court is directed to deposit entire awarded amount in the fixed deposit of any nationalized bank initially for a period of one year and same be continued till further orders.
- C) Liberty granted to the Respondent original Claimant to prefer application for withdrawal of awarded amount and that be decided on its own merits.
- D) Civil Application stands disposed of accordingly.

(K.K.TATED, J.)