

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION No. 1739 OF 2019
IN
FIRST APPEAL No. 589 OF 2019

The State of Maharashtra
(through the Deputy
Collector, Land Acquisition) ...Applicant

Vs.

Shri Krushna Vinayak Patil
and Ors. ...Respondents

Mr. A.R. Patil-AGP for the Applicant

CORAM: K.K. TATED, J.

DATED : JUNE 26, 2019

P.C. :

1. Heard learned AGP Mr.A.R. Patil for the Applicant.
2. By this civil application, the Applicant is seeking stay of the operation, implementation of the judgment and award dated dated 22nd October, 2016 passed by the Learned 2nd Joint Civil Judge, Senior Division, Raigad-Alibag in Land Acquisition Reference No.195 of 2014 holding that the Respondents/Original Claimants are entitled additional compensation of Rs.40,22,269/-.

3. The learned AGP for the Applicant submits that in the present proceeding, the Special Land Acquisition Officer issued Notification under Section 4 of the Land Acquisition Act dated 24th September, 1986 for acquiring Respondents'/Original Claimants' land from village Bokadvira, Taluka Uran, Dist. Raigad for the purpose of "New Bombay Project". He submits that after following due process of law, the Special Land Acquisition Officer declared award under Section 11 of the Land Acquisition Act and awarded compensation of Rs.45,731/- in respect of the land acquired. Thereafter Claimants preferred application under Section 28A of said Act in which, the Special Land Acquisition Officer passed award on 7.8.2014 and awarded additional compensation of Rs.32,476/-. Being aggrieved by the said award passed by the Special Land Acquisition Officer, the Respondents preferred Reference under Section 28A(3) of the Land Acquisition Act, claiming for enhanced compensation @ Rs.2,000/- PSM towards the market value along with other statutory benefits of land.

4. The learned AGP submits that the Reference Court, without considering the evidence on

record, awarded enhanced compensation @ Rs.600/- PSM by Judgment and Award dated 22nd October, 2016. He submits that the Reference Court at the time of awarding additional compensation, failed to consider the earlier judgments in LAR for acquired land from the same locality. He submits that the Reference Court only relied on the judgment of the earlier matter below Exhibit 19 only.

5. The learned AGP for the Applicant submits that, they have good chance of success in the present proceeding. He submits that if the entire awarded amount is recovered by the Respondent by filing execution application, then nothing will survive in the present First Appeal. He 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 dated 22nd October, 2016.

6. Considering the submissions made by the learned AGP for the Applicant, the averments made in the civil application and as the Reference Court awarded additional compensation of Rs.600/- PSM. in respect of the acquired

land with statutory benefits, I am satisfied that the Applicant has made out a case for allowing this civil application, but at the same time, they have to deposit the entire awarded amount in the Reference Court.

7. Hence, following order:

(a) Civil Application is allowed in terms of prayer clause (b), on condition that the Applicant to deposit the entire awarded amount with interest in Reference Court on or before 27th September, 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. 195 of 2014, till the hearing and final disposal of the above mentioned First Appeal."

(b) If the entire awarded amount is deposited by the Applicant within stipulated time as

stated hereinabove, the Reference Court is directed to invest the same in fixed deposit of any Nationalized Bank, initially, for a period of one year and same to be continued till further orders.

(c) Liberty is granted to the Respondents/Original Claimants, if he so desires, to prefer appropriate application for withdrawal of the awarded amount and that application be decided on its own merits.

(d) Civil Application stands disposed of accordingly.

(e) No order as to costs.

(K. K. TATED, J.)