

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

**CIVIL APPLICATION NO.4142 OF 2016
IN
FIRST APPEAL NO.1437 OF 2016**

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.A.R.Patil, A.G.P. for the applicant

Ms.Deepa Punde i/b Mr.S.S.Punde for the respondent

**CORAM : K. K. TATED, J
DATE : MARCH 27, 2019**

P.C.:

. Heard.

2 By this Civil Application Applicant State of Maharashtra is seeking stay of the operation and implementation of the impugned judgment and award dated 11.1.2013 passed by Reference Court in L.A.R.No.485 of 2000 awarding additional compensation of Rs.29,25,389/-.

3 The learned A.G.P. for the Applicant submits that in the present proceeding, Special Land Acquisition Officer issued notification under section 4 off the Land Acquisition Act, dated 24.9.1986 for acquiring Respondent original claimants land from Village Wadghar, Tal Panvel, Dist. Raigad for New Bombay Project. After following due process of law, Special Land Acquisition Officer passed award dated 29.11.1988 and awarded Rs.8,311/- by way of compensation for acquired property. He submits that being aggrieved by the said award, Respondent original Claimant preferred reference under section 18 of the Land Acquisition Act for enhanced compensation @ 1500 per sq.mtr. He submits that Reference Court awarded 889 per square meter which is on higher side.

4 The learned A.G.P. submits that during the pendency of the First Appeal, operation and implementation of the impugned judgment and award is stayed. He submits that if entire amount is recovered by Respondent original Claimant in execution application, nothing will survive in the present proceeding. He submits that they have good chance of success in the present proceeding.

5 On the other hand, the learned counsel for

the Respondent vehemently opposed the present Civil Application. She submits that though impugned judgment and award was passed in 2013 till today, Applicant failed and neglected to deposit awarded amount in the Reference court. Hence, there is no substance in the present Civil Application and same be dismissed.

6 Heard.

7 It is to be noted that in the present proceeding, Reference Court awarded 29,25,389/- additional compensation to the Claimant. Considering these facts, I am of the opinion that applicant has made out a case for allowing the Civil Application, but at the same time Applicant have to deposit entire awarded amount along with interest and cost if any in the Reference Court within stipulated time. Hence, following order is passed

A) Civil Application is allowed in terms of prayer clause (b) on condition that applicant to deposit entire awarded amount along with interest within 12 weeks from today in Reference Court, 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 11.01.2013 passed by the Learned Civil Judge, Senior Division, Alibag-Raigad in L.A.R. No.485 of 2000 (Old L.A.R. No.91/1990), till the hearing and final disposal of the above mentioned First Appeal."

B) If amount is deposited within stipulated time as stated hereinabove, Reference Court is directed to invest the said amount in 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, if they so desire, to prefer appropriate application for withdrawal of the amount and that be decided on its own merits.

D) Civil Application stands disposed of accordingly.

(K.K.TATED, J.)