

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION No. 1736 OF 2019
IN
FIRST APPEAL No. 588 OF 2019

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

Vs.

Shri Eknath Namdeo Mungaji
(deceased) through Lrs.
Smt. Mainabai Eknath Mungaji
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 17th October, 2016 passed by the Learned Civil Judge, Senior Division, Raigad-Alibag in Land Acquisition Reference No.265 of 2000 holding that the Respondents/Original Claimants are

entitled additional compensation of Rs.94,61,017/- in respect of acquired land.

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 8th June, 1987 for acquiring Respondents'/Original Claimants' land from village Bambavi, Taluka Panvel, Dist. Raigad for the purpose of "Nhava-Sheva Port Trust National Highway NO.4-B". 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.48,483/- in respect of the acquired land. He submits that being aggrieved by the said award passed by the Special Land Acquisition Officer, the Respondents preferred Reference under Section 18 of the Land Acquisition Act, claiming for enhanced compensation @ Rs.1,800/- PSM towards the market value of acquired land along with other statutory benefits. He submits that the Reference Court by its judgment and award dated 17th December, 2016 held that the Respondents/Original Claimants are entitled

compensation in respect of acquired land @ Rs.715/- PSM.

4. The learned AGP for the Applicant submits that, the Reference Court at the time of awarding additional compensation, failed to consider the sale deeds on record. He submits that the compensation awarded by the Reference Court is at higher side.

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 17th December, 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 @ Rs.715/- 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 17.12.2016 passed by the Learned Civil Judge, Senior Division, Alibag in L.A.R. No.265 of 2000 [Old L.A.R. No. 41/1989 (LAR No. 363 / 1989)], 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.)