

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION NO.2152/2019
IN
FIRST APPEAL NO.738/2019

State of Maharashtra Applicant.
Vs.
Sitaram L. Patil
(through LR's) ... Respondents.

AGP Mrs. Tanaya Goswami for appellant.
Adv. Mr. Hemant Ghadigaonkar for respondent nos.2 to 12.

CORAM : K.K.TATED, J.
DATED : JULY 3, 2019.

P.C.

Heard learned counsel for parties.

2. By this civil application, applicant/State is seeking stay of operation and implementation of impugned judgment and award dated 20.12.2016 passed by learned Civil Judge, Senior Division, Alibag, in LAR no.179/2016 holding that, respondents are entitled sum of Rs.8,30,944/- by way of additional compensation.

3. Learned AGP Ms Tanaya Goswami submits that in

the present proceeding Special land Acquisition officer issued notification u/s 4 of Land Acquisition Act (hereinafter referred as said Act) dated 24.9.1986 for acquiring respondent's land from Village Dongari, Tal-Uran, Dist-Raigad for New Bombay Project. She submits that, after following due process of law, the Special land Acquisition Officer passed award, u/s 11 of said Act on 25.9.1989 and held that respondents/claimants are entitled sum of Rs.7,522/- by way of compensation. Thereafter the claimants filed application u/s 28(A) of the said Act. The Special Land Acquisition Officer declared award u/s 28-A on 24.2.2016, @ Rs.4.48 Ps to 5.87 ps per sq.mtrs. Being aggrieved, the claimants preferred reference u/s 28-A(3) of the said Act and claimed compensation @ 5000/- per sq.mtr.

4 Learned AGP submits that the reference court awarded compensation only on the basis of earlier judgment in LAR no.772/2000 below Exh.29 and held that respondents/claimants are entitled additional compensation in respect of acquired land @ Rs.500/ per sq.mtr. He submits that they have good chance of success. Irreparable loss would be caused to applicant if entire amount is recovered by respondents by filing execution application.

5. Considering the submissions made by learned counsel for applicant and averments made in application and as reference court awarded additional compensation of Rs. 8,30,934/- I am satisfied that applicant has made out case for following order.

A) Civil application is allowed in terms of prayer clause (b) which is reproduced as below; on condition that, applicant to deposit entire awarded amount with interest in reference court on or before 27.9.2019 failing which civil application shall stand dismissed without referring back to the court.

“b) That this Hon'ble Court be pleased to stay the operation, execution and implementation of the Judgment and Award dated 20.12.2016 passed by the learned Civil Judge, Senior Division Alibag, in LAR no.179/2016 till hearing and final disposal of First appeal.”

B) Reference court is directed to invest the amount amount in a Fixed Deposit in any Nationalized bank, initially for a period of one year and thereafter same be continued till further orders.

C) Liberty granted to respondents/claimants if they so desire to prefer appropriate application for

withdrawal of amount and that application will be decided on its own merits.

D) Civil Application is allowed accordingly.

(K.K.TATED, J.)

