

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

CIVIL APPLICATION NO.2148 OF 2019

IN

FIRST APPEAL NO.733 OF 2019

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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Ms.Tanaya D. Goswami, A.G.P. for the
applicant

Mr.Kunal Damle I/b Mr.Hemant Ghadigaonkar
for the respondent

**CORAM : K. K. TATED, J
DATE : JULY 1, 2019**

P.C.:

. Heard.

2 By this Civil Application, Applicant is seeking stay of the judgment and award dated dated 20.12.2016 passed by learned Civil Judge, Senior Division, Alibag in L.A.R.No.176 of 2016.

3 The learned A.G.P submits that in the present proceedings, Special Land Acquisition Officer issued notification under section 4 of

the Land Acquisition Act dated 24.09.1986 for acquiring Respondent original Claimant's land from Village Dongari, Taluka Uran, District Raigad for New Bombay Project. She submits that after following due process of law, Special Land Acquisition Officer awarded sum of Rs.15,029/- to the Respondent original Claimant under section 11 of the Land Acquisition Act on 25.09.1989. She submits that being aggrieved by the said award, Respondent original Claimant made Application under section 28-A of the said Act and thereafter, made Reference dated 12.08.2016 under section 28A (3) of the Land Acquisition Act claiming compensation @ Rs.5,000/- per sq.meter in respect of acquired land.

4 The learned A.G.P. submits that, Reference Court without considering the evidence on record and only relying on earlier judgment, held that Claimants are entitled compensation in respect of acquired land @ Rs.500/- per sq.meter. She submits that Reference Court awarded additional compensation of Rs.17,28,316/-. She submits that they have good chance of success in the present proceeding. She 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 till the hearing and final disposal of First Appeal. She submits that if stay is not granted, irreparable loss will be caused to the Applicant.

5 On the other hand, the learned counsel for the Respondent original Claimant submits that Reference Court after considering the evidence on record held that Claimants are entitled additional compensation in respect of acquired land. In any case, this is a money decree. She submits that if stay is granted, Applicant to deposit entire awarded amount in the Reference court.

6 Considering the submissions made by the learned counsel for the Applicant and as Reference Court awarded additional compensation of more than Rs.15 lakhs, I am satisfied that the Applicant has made out a case for allowing the present Civil Application. Hence, the following order:

A. Civil Application is allowed in terms of prayer clause (b) on condition that Applicant to deposit entire awarded amount along with interest in the Reference Court on or before 30.09.2019, failing which, Civil Application shall stand dismissed without referring back to

the court. Prayer clause (a) reads thus:

"(a) 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 L.A.R. No.176 of 2016, 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 entire amount in fixed deposit of any nationalised bank initially for a period of one year and same be continued till further orders.

C. Liberty granted to the Claimant to make appropriate Application for withdrawal of amount and that Application be decided on its own merits.

D. Civil application stands disposed of accordingly.

(K.K.TATED, J.)