

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION NO.2151/2019
IN
FIRST APPEAL NO.737/2019

State of maharashtra Appellant.

Vs.

Kalpana A. Gharat
(since deceased through LR's) ... Respondents.

Ms. Tanaya Goswami, AGP for appellant.

Advocate Mr.Hemant Ghadigaonkar for respondent nos.1 to 5.

CORAM : K.K.TATED, J.

DATED : JULY 3, 2019.

P.C.

Heard learned AGP Miss Tanaya Goswami for applicant.

2. By this civil application, applicant/State is seeking stay of operation and implementation of judgment and award dated 21.12.2016 passed by learned Civil Judge, Senior Division, Alibaug, in LAR No.267/2016 holding that, respondent/original claimants are entitled sum of Rs.17,40,763/- by way of additional compensation with other

benefits.

3. Learned AGP submits that in the present proceeding the Special Land Acquisition Officer issued Notification u/s 4 of Land Acquisition Act (said Act) dated 24.9.1986 for acquiring respondent's land from village Dongri, Taluka-Uran, District-Raigad, for new Bombay project. After following due process of law, Special Land Acquisition Officer declared award u/s 11 of said Act dated 25.09.1989 and awarded sum of Rs.60,694/- by way of compensation. She submits that thereafter respondents/ claimants filed application u/s 28-A of said Act. Hence, the Special Land Acquisition Officer declared award u/s 28-A, of the said Act on 5.4.2016 and awarded compensation @ 4.56 to 5.43 ps. Per sq.mtr. Being aggrieved by said award, respondents/claimants preferred reference u/s 28-A(3) of the said Act and claimed enhanced compensation @ Rs.5000/- per square meter. She submits that the reference court without considering sale instances on record held that, respondents/claimants are entitled additional compensation of Rs.500/- per sq.mtr. She submits that they have good chance of success. If the entire amount is recovered by respondents/claimants by filing execution application, then nothing will survive in the present proceeding. She submits

that in the interest of justice, operation and implementation of impugned judgment and award be stayed during pendency of first appeal.

4. It is to be noted that, in the present proceeding, reference court held that respondents are entitled to sum of Rs.17,40,763/- by way of additional compensation. At the time of awarding compensation, reference court relied on previous judgment in LAR No. 267/2016 only.

5. Considering these facts, I am satisfied that applicant has made out the case for allowing application, but at the same time they have to deposit entire awarded amount in reference court.

6. Hence, the following order.

A) Civil Application is allowed in terms of prayer clause (b) which is reproduced as below, on condition that applicant to deposit the entire awarded amount alongwith 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 court be pleased to stay the operation , execution and implementation of the judgment and

award dated 21.12.2016 passed by learned Civil Judge, Senior Division, Alibag in LAC no.267/2016 till the hearing and final disposal of the first appeal.

B) If amount is deposited within stipulated time as mentioned above, the reference court is directed to invest the amount in 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 disposed of.

(K.K.TATED, J.)

