

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION NO.2222/2019
IN
FIRST APPEAL NO.776/2019

The State of Maharashtra ... Appellant.
V/s.
Kai.Balaram Narayan Patil & Ors. ... Respondent
AGP Mr. AR Patil for appellant.

CORAM: K.K. TATED, J.

DATED : JULY 3, 2019

P.C.

Heard learned AGP Mr.A.R.Patil for state/applicant.

2. By this civil application, applicant/State is seeking stay of judgment and award dated 20.12.2016 passed by learned Civil judge, Senior Division, Alibag in LAR no.183/2016 holding that, respondents/claimants are entitled additional compensation 5,86,675/- for acquired land.

3. Learned AGP Mr.A.R. Patil submits that in the present case, 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/claimant's land from village Panje, Taluka-Uran, District-Raigad for New Bombay Project. After following due process of law, the Special Land Acquisition Officer declared the award dated 23.6.1989 u/s 11 of the said Act and awarded total compensation in respect of the acquired land of Rs.8105/-. Being aggrieved by the said Award the Respondent-Claimant, on the basis of the previous judgment in respect of the land from same locality in LAR No.638/2000 preferred application u/s 28-A of the said Act on 3.3.2014. The Special Land Acquisition Officer declared the Award on 08.02.2016 u/s 28-A of the said Act and awarded compensation in respect of the acquired land @ Rs.5.88 PSM. Being aggrieved by said Award, the Respondent-Claimant preferred Reference u/s 28A(3) of the said Act on 12.8.2016 and claimed compensation in respect of the acquired land @ Rs.5000/- PSM.

4. Learned AGP submits that the reference court without considering evidence on record, held that, respondents are entitled compensation in respect of acquired land @ 500 per square mtr.

5. The learned AGP submits that at the time of deciding market value of the acquired land, reference court relied on

previous judgment in land acquisition matters. He submits that they have good chance of success. He submits that pending the hearing and final disposal of first appeal, this court be pleased to stay operation and implementation of impugned judgment and award. He submits that if stay is not granted, irreparable loss would be caused to applicant.

6. It is to be noted that in the present proceeding, at the time of deciding market value of acquired land, reference court relied on judgment in LAR no.553/2000 and held that respondents are entitled additional compensation in respect of acquired land.

7. Considering the submissions made by learned AGP Mr.Patil for State, averments made in the civil application, and after perusing impugned judgment and award ,I am satisfied that applicant is entitled 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.183/2016 till the hearing and final disposal of the abovementioned First appeal.

B) The Tribunal is directed to invest 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 allowed accordingly.

(K.K.TATED, J.)

