

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

Civil Application No.1539/2019
in
First Appeal No.458/2019

Office Notes, Office Memoranda of Coram, appearances, Court's orders or directions and Registrar's orders	Court's or Judge's orders.
Mrs. Tanaya Goswami, AGP for the Applicant	

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

P.C.

Pursuant to the praecipe filed by the advocate for the Applicant, the matter is taken on production board.

2. Heard. By this Civil Application, the Applicant is seeking stay to the judgment and award dated 20.01.2017 passed by the Reference Court in LAR No.736/2000 (Old LAR No.383/1990) during pendency of the First Appeal.

3 The learned counsel for the Applicant submits that the Respondent has filed Darkhast Application for recovery of the amount. She submits that if the entire amount is recovered in Execution

Application, then nothing will survive in the present proceedings.

4 The learned AGP submits that the Special Land Acquisition Officer issued Notification u/s.4 of the Land Acquisition Act, 1894 for acquiring the Respondent's land from village Dongari, Tq. Uran, Dist. Raigad for New Bombay Project. She submits that after following due process of law, they passed Award u/s.11 of the said Act on 25.9.2019 and awarded sum of Rs.10400/- towards the acquired land.

5 The learned AGP submits that being aggrieved by the said award, the Respondent - claimant filed Reference u/s.18 of the said act and claimed compensation of Rs.1500/- PSM. She submits that the Reference Court, without considering the evidence on record and sale instances held that the Respondent - claimants are entitled to sum of Rs.7,09,600/- by way of additional compensation in respect of the acquired land. She submits that the Applicant has good chance of success. 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 hearing and final disposal of the first appeal.

6 Considering the submissions made by the learned AGP and as the Reference Court has awarded additional compensation of Rs.7,09,600/- I am satisfied that the Applicant has made out a case for allowing the Civil Application, subject to the Applicant depositing the entire awarded amount along with interest, costs, if any, in the Reference Court, failing which the Civil Application shall stand dismissed without further reference to the court.

7 Hence, the following order is passed:

a. The Civil Application is allowed in terms of prayer clause (b), subject to the Applicant depositing the entire awarded amount along with interest, costs, if any, in the Reference Court on or before 31.07.2019 failing which the Civil Application shall stand dismissed without further reference 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 20.01.2017 passed by the learned 2nd Jt. Civil Judge, Senior Division, Alibaug in LAR No.736/2000 till the hearing and final disposal of the above mentioned First Appeal.”

b. The Tribunal is directed to invest the awarded amount in a fixed deposit of any Nationalized Bank, initially for a period of one year and same shall be renewed from time to time till further orders.

c. Liberty granted to the claimants to prefer an appropriate Application for withdrawal of amount, if they so desire, which will be decided on its own merits.

d. Civil Application stands disposed of accordingly.

(K.K.TATED, J.)