

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

Civil Application No.2586/2019

in

First Appeal No.1018/2019

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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Mr. A. R. Patil, AGP for the Applicant

CORAM : K.K.TATED, J.

DATED : JULY 31, 2019

P.C.

1 Heard. By this Civil Application the Applicant is seeking stay to the operation and implementation of the impugned judgment and award dated 21.12.2016 passed by the learned Civil Judge, Senior Division, Alibaug in LAR No.189/2016 holding that the Respondent - Claimant is entitled to additional compensation of Rs.5,20,119/- in respect of the acquired land @ Rs.500/- PSM.

2 The learned AGP for the Applicant submits that the Applicant has good chance of success in the matter. He submits that the Special Land Acquisition Officer had issued

Notification u/s.4 of the Land Acquisition Act, 1894 on 24.09.1986 for acquiring the Respondent-Claimant's land from village Panje, Tq. Uran, Dist. Raigad for New Bombay Project. The Special Land Acquisition Officer passed Award u/s.11 of the said Act on 25.07.1989 holding that the Respondent-Claimant is entitled to sum of Rs.4,786/- by way of compensation.

3 Being aggrieved by the said award the Respondent-Claimant preferred application u/s.28-A of the said Act and claimed higher compensation on the basis of the previous judgment in LAR No.553/2000.

4 The learned AGP submits that the Reference Court without considering the evidence on record only on the basis of the earlier judgment in LAR No.553/2000 held that the Respondent-Claimant is entitled to compensation in respect of the acquired land @ Rs.500/- PSM. He submits that the compensation awarded by the Tribunal is on higher side. He submits that pending the hearing and final disposal of the First Appeal, this Hon'ble Court be pleased to

stay the operation and implementation of the impugned judgment and award. He submits that if stay is not granted irreparable loss will be caused to them.

5 Considering the submissions made by the learned AGP and as the Reference Court has awarded compensation only on the basis of the previous judgment in LAR No.553/2000, I am satisfied that the Applicant has made out a case for allowing the Civil Application.

6 Hence, 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 and costs in the Tribunal on or before 08.11.2019, 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 execution, operation and implementation of the judgment and award dated 21.12.2016 passed by the learned Civil Judge, Senior Division, Nashik in LAR No.189/2016 till the hearing and final disposal of the abovementioned First Appeal.”

- b. The Tribunal is directed to invest the amount in a fixed deposit account of any Nationalized Bank, initially for a period of one year and same shall be renewed from time to time till hearing and final disposal of the appeal.
- 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. The Civil Application stands disposed of accordingly.
- e. No order as to costs.

(K.K.TATED, J.)