

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION NO.4182/2016
IN
FIRST APPEAL (ST)NO.14028/2011

State of Maharashtra Appellant.
Vs.
Tukaram D. Dhage ... Respondents.

AGP Mrs. Tanaya Goswami for State.

CORAM : K.K.TATED, J.
DATED : JULY 8, 2019.

P.C.

Heard learned AGP Ms.Tanaya Goswami for the
State.

2. By this civil application, applicant is seeking stay of operation and implementation of judgment and award dated 26.10.2004 passed by learned Civil Judge, Senior Division, Barshi, District Solapur in LAR No.139/2002 holding that respondents are entitled additional compensation of Rs.91300/-.

3. Learned AGP Ms Goswami for applicant submits that

in the present proceeding Special Land Acquisition officer issued notification u/s 4 of Land Acquisition Act (hereinafter referred as 'said Act') dated 19.11.1992 for acquiring respondent/claimants land from village Pimpalner, Tal-Madha, Dist-Solapur for construction of 33 KV sub Station of M.S.E.B. at Pimpalner. After following due process of law Special Land Acquisition Officer passed award on 17.4.1986 and awarded compensation in favour of respondent/claimant. Being aggrieved by said award, claimants preferred reference u/s 18 of the said Act claiming additional compensation of Rs. 91,300/- .

3. Learned AGP submits that the reference court without considering sale instances, awarded additional compensation of Rs.91,300/-. She submits that they have good chance of success. She submits that if entire amount is recovered by respondent by filing execution, application nothing will survive in present proceeding. She submits that in the interest of justice, pending hearing and final disposal of First Appeal operation and implementation of impugned judgment and award be stayed.

4. Considering the submissions made by learned AGP and averments made in application, and as reference court awarded additional compensation in favour of claimant,

without considering sale instances on record, applicant has made out a case for stay but at the same time, they have to deposit entire awarded amount in reference court.

5. 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 entire awarded amount with interest in reference court on or before 4.10.2019 failing which civil application shall stand dismissed without referring back to the court. Prayer clause (b) reads thus;

(b) That this Hon'ble Court be pleased to stay the operation and/or execution and/or implementation of the Judgment and Award dated 26.10.2004 passed by the Learned Civil Judge, Senior Division, Barshi, District-Solapur in LAR No.139/2002 (Od LAR No.16/95), till the hearing and final disposal of the abovementioned First Appeal.

B) If amount is deposited in reference court within stipulated time, the reference court 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 further amount and that application will be decided on its own merits.

D) Civil Application allowed accordingly.

E) no order as to cost.

(K.K.TATED, J.)

