

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION NO. 909 OF 2015
IN
FIRST APPEAL NO. 266 OF 2015

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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Ms. Tanaya Goswami, AGP for the Applicant.

CORAM: K.K.TATED, J.
DATED : 10/10/2019

P.C.

- 1 Heard learned AGP for the Applicant.
- 2 By this Civil Application, the Applicant State of Maharashtra is seeking stay of the operation and implementation of the Judgment and Award 23.01.2014 passed by the Civil Judge, Senior Division, Sindhudurg at Oras in LAR No. 22/2003.
- 3 The learned AGP submits that in the present proceeding, the Special Land Acquisition Officer issued notification under Section 4 of the Land Acquisition Act dated 01.06.1989 for acquiring Respondent's land from village Sargave, Taluka Dodamarg, District Sindhudurg for Tillari Jalvidhyut and Mukhya Patbandhare Prakash. She submits

that by following due process of law, the Special Land Acquisition Officer declared Award dated 31.10.1992 and awarding sum of Rs.2,05,346/- to the Respondent original Claimant. She submits that being aggrieved by the said award, the Respondents-Claimants preferred Reference under Section 18 of the L.A. Act claiming additional compensation of Rs.2,00,000/-. The Reference Court awarded compensation in respect of acquired land @ Rs.2,000/- per Are for Kharip land and @ Rs.1,000/- per Are for Warkas land and @Rs.150/- per Are for Pot-Kharaba land.

4 The learned AGP submits that the Reference Court awarded compensation in respect of acquired land on higher side. She submits that at the time of awarding additional compensation, the Reference Court failed to consider the relevant Sale Deed on record. She submits that they have good chance of success in the present matter. She submits that in the interest of justice, this Hon'ble Court be pleased to stay the operation and implementation of the Judgment and Award passed by the Reference Court. She submits that if entire amount is recovered by the Respondents Claimants in Execution Application, then

nothing will survives in this First Appeal.

5 Considering the submissions made by the learned AGP for the Applicant and averments made in Civil Application, I am satisfied that Applicant has made out a case for allowing this Civil Application, but at the same time, they have to deposit entire awarded amount with accrued interest in the Reference Court.

6 Hence, the following order is passed:

a) Civil Application is allowed in terms of prayer clause (b) on condition that Applicant to deposit the entire awarded amount with interest in the Reference Court on or before 13.11.2019, failing which 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 and/or execution and/or implementation of the Judgment and Award dated 23.01.2014 passed by the Learned Civil Judge, Senior Division, Sindhudurg-Oras in LAR No. 22 of 2003 (Old LAR No. 07/2002) till the hearing and final disposal of the above mentioned First Appeal.”

b) If amount is deposited within stipulated time, the Reference Court is directed to invest the entire amount in fixed deposit of any Nationalised Bank, initially

for a period of one year and same to be continued till further order.

c) Liberty is granted to the Respondents-Claimants, if they so desire, to prefer an appropriate application for withdrawal of amount and that to be decided on its own merits.

d) Civil Application stands disposed of accordingly.

e) No order as to costs.

(K.K.TATED, J.)