

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

Civil Application No. 3048/2015
in
First Appeal No. 1023/2015

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 The learned AGP submits that they have already served the notice on other side. The statement is accepted.

3 By this Civil Application, the Applicant seeks stay to the operation and implementation of the judgment and award dated 20.11.2013 passed by the Reference Court in LAR No.538/2000 till hearing and final disposal of the first appeal. The learned AGP submits that in the present proceedings the Respondent - claimant has filed

Darkhast Application for recovery of the entire amount. She submits that if the amount is recovered by the claimant in the Execution Application, nothing will survive in the present proceedings.

4 The learned AGP submits that a Notification u/s.4 of the Land Acquisition Act, 1894 was issued on 25.11.1986 for acquiring the Respondent claimant's land from village Panje, Tq. Uran, Dist. Raigad. She submits that after following due process of law, the SLO by award dated 23.06.1989 awarded compensation of Rs.1 lac per hector.

5 The learned AGP submits that being aggrieved by the award dated 23.6.1989, the Respondent - claimant preferred Reference u/s.18 of the said Act, wherein the Reference Court has awarded enhanced compensation of Rs.500 PSM. She submits that the Reference Court has awarded enhanced compensation of Rs.2,95,489/- for land. She submits that, at that time, the Reference Court has not considered the sale instances on record properly. She submits that the Applicant has good chance of success.

6 The learned AGP submits that they are ready and willing to deposit the entire awarded amount in the Reference Court on or before 31.07.2019. The same is accepted.

7 Considering the submissions made by the learned AGP and as the Reference Court has enhanced compensation of Rs.2,95,489/-, I am satisfied that the Applicant has made out a case for allowing the Civil Application.

8 Hence, the following order is passed:

a. Civil Application is allowed in terms of prayer clauses (b) subject to the Applicant depositing the entire awarded amount 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 28.11.2013 passed by the learned Civil Judge, Senior Division, Raigad at Alibag in in LAR No.538/2000 till the hearing and final disposal of the abovementioned 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.)