

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

Civil Application No.1855/2017
in
First Appeal (ST) No. 14242/2014

Office Notes, Office Memoranda of Coram, appearances, Court's orders or directions and Registrar's orders	Court's or Judge's orders.
---	----------------------------

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

CORAM : K.K.TATED, J.
DATED : APRIL 22, 2019

P.C.

1 Heard. Though Mr. Nilesh Masurkar has filed Vakalatnama, none appeared for the them.

2 By this Civil Application, the Applicant seeks stay to the operation and implementation of the impugned judgment and award dated 05.09.2013 passed by the Civil Judge, Senior Division, Alibaug at Raigad in LAR No.819/2000 (Old No.27/1991).

3 The learned AGP submits that in the present proceedings, the Special Land Acquisition Officer had issued Notification u/s.4 of the Land Acquisition Act, 1894 (said

Act) on 24.09.1986 for acquiring the Respondent's land from village Kopar, Tq. Panvel for New Mumbai Project. He submits that after following due process of law, the Special Land Acquisition Officer passed the award u/s.11 of the said Act on 08.09.1989. He submits that being aggrieved by the said award, the Respondent - claimant preferred Reference u/s.18 of the said Act on 15.11.1989 claiming enhanced compensation in respect of the acquired land @ Rs.1500/- PSM. He submits that the Reference Court, without considering the evidence on record held that the Respondent claimants are entitled to compensation in respect of the acquired land @ Rs.889/- PSM along with additional component u/s.23(2) and 23(1)(a) of the said Act with interest u/s.28 of the said Act.

4 The learned AGP submits that the Applicant has good chance of success. He submits that if the entire awarded amount is recovered in the Execution Application nothing will survive in the present proceedings. He submits that in the interest of justice this Hon'ble Court be pleased to stay to the operation and implementation of the impugned judgment

and award till hearing and final disposal of the appeal.

5 Considering the submissions made by the learned counsel for the Applicant and as the Reference Court has awarded additional compensation of Rs.25,60,593.62, I am satisfied that the Applicant has made out a case for allowing the Civil Application. At the same time, the Applicant has to deposit the entire awarded amount in the Reference Court on or before 31.07.2019.

6 Hence, following order is passed:

a. Civil application is allowed in terms of prayer clause (b), which is reproduced below, subject to the Applicant depositing the entire awarded amount along with interest and costs in the Reference Court on or before 31.07.2019, failing which the Civil Application shall stand dismissed without further reference to the court.

(b) that this Hon'ble Court be pleased to stay the operation, execution and implementation of the judgment and award dated 05.09.2013 passed by the learned Civil Judge, Senior Division, Raigad at Alibag in LAR NO.819/2000 (Old LAR No.27/1991), till hearing and final disposal of the above mentioned first appeal.

b. If the amount is deposited within stipulated time as stated hereinabove, liberty granted to the Respondent claimants to prefer an appropriate Application for withdrawal of the amount, if they so desire, which will be decided on its own merits

c. The Tribunal is directed to invest the awarded 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 further orders.

d. Civil application stands disposed off accordingly.

(K.K.TATED, J.)