

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION NO.899/2015
IN
FIRST APPEAL NO.264/2015

The State (The Collector,
Sindhudurg, Oros) & Ors. ... Applicants.
Vs.
Smt.Sushila A. Savant & Ors. ... Respondents.

Mr.A.R.Patil, AGP for applicants/appellants.

CORAM : K.K.TATED, J.
DATED : JUNE 21, 2019.

P.C.

Heard Mr.A.R. Patil, learned AGP for applicant.

2. By this civil application, applicant/State is seeking stay of operation and implementation of judgment and award dated 18.3.2013 passed by learned Civil Judge, Senior Division, Sindhudurg, Oros in Land Reference No.- 21/2003 holding that, respondents/claimants are entitled to additional compensation.

3. Learned AGP for applicant submits that, in the present proceeding, Special Land Acquisition Officer issued Notification under Section 4 of the Land Acquisition Act dated 13.5.1993 for acquiring respondent's land situated at

village Ainode, Taluka-Sawantwadi, District-Sindhudurg for public purpose i.e. for 'Tillari Jalvidyut and Mukhya Patbandhare Prakalp'. After following due process of law, Special Land Acquisition Officer declared award dated 31.1.1997 u/s 11 of said Act.

3. Being aggrieved by award, respondent preferred reference u/s 18 of said Act, and claimed additional compensation of Rs. 1,00,000/-. The reference court, without considering the evidence on record held that, respondents are entitled for additional compensation.

4. Learned AGP for applicants submits that, they have good chance of success in the matter. He submits that, during the pendency of first appeal, operation and implementation of impugned judgment be stayed. He submits that if stay is not granted irreparable loss would be caused to the applicants.

5. Considering the submission made by the learned AGP, Mr.A.R. Patil for State, averments made in the civil application and as reference court has awarded additional compensation in favour of respondent, I am satisfied that applicant has made out a case for allowing the application but, at the same time, they have to deposit entire awarded

amount with interest in reference court.

6. Hence, the following order

A) Civil application is allowed in terms of prayer clause (b) which is reproduced below, on condition that applicant to deposit entire amount with interest in reference court, on or before 31/8/2019 failing which civil application shall stand dismissed without referring back to the court.

“b)That this Hon'ble Court be pleased to stay the operation, execution and implementation of the Judgment and Award dated 18.3.2013 passed by the laearned Civil Judge, Senior Division, Sindhudurg-Oros in L.A.R.No.21 of 2003 (Old L.A.R.No.66/2002) till the hearing and final disposal of the above mentioned First Appeal.”

B) If amount is deposited within stipulated time as stated above, respondents are permitted to withdraw 15% amount by furnishing solvency certificate but, subject to outcome of first appeal.

C) If amount is not withdrawn by respondents within 3 months, reference court is directed to deposit the amount in a Fixed Deposit in any Nationalized bank, initially for a period of one year and thereafter same be continued till further orders.

D) Liberty granted to the respondent/original claimants if they so desire to prefer application for withdrawal of additional amount and that application would be decided on its own merits.

E) Civil application stands disposed of.

(K.K.TATED, J.)

