

**FARAD CONTINUATION SHEET
IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

CIVIL APPLICATION NO.2147 OF 2019

IN

FIRST APPEAL NO.732 OF 2019

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 D. Goswami, A.G.P. for the
applicant

Mr.Kunal Damle I/b Mr.Hemant Ghadigaonkar
for the respondent

**CORAM : K. K. TATED, J
DATE : JULY 1, 2019**

P.C.:

. Heard.

2 By this Civil Application, Applicant is seeking stay of the judgment and award dated dated 23.2.2017 passed by Reference court holding that Respondents original Claimants of Rs.82,88,274/- are entitled additional compensation in respect of acquired land.

3 The learned A.G.P submits that in the present proceedings, Special Land Acquisition

Officer issued notification under section 4 of the Land Acquisition Act dated 25.07.1991 for acquiring Respondent original Claimant's land from Village Shemtikhar, Tal. Uran, District Raigad for the purpose of "New Bombay Project". She submits that after following due process of law, Special Land Acquisition Officer awarded sum of Rs.1,43,726/- to the respondents original claimants under section 11 of the Land Acquisition Act on 02.09.1994. She submits that being aggrieved by the said award, Respondents original Claimants preferred Reference dated 07.05.2016 under section 28-A(3) of the Land Acquisition Act and claimed compensation @ Rs.3,000/- per sq.meter. She submits that Reference Court without considering the evidence on record held that Respondents original Claimants are entitled compensation @ Rs.850 per sq.meter. She submits that Reference Court awarded additional compensation in respect of acquired land to the tune of Rs.1,39,57,119/-.

4 The learned A.G.P. submits that they have good chance of success in the present proceeding. She submits that in the interest of Justice, this Hon'ble Court be pleased to stay the operation and implementation of the impugned judgment and award till the hearing

and final disposal of First Appeal. She submits that if stay is not granted, irreparable loss will be caused to the Applicant.

5 On the other hand, the learned counsel for the Respondents original Claimants submits that Reference Court after considering the evidence on record held that Claimants are entitled additional compensation in respect of acquired land. In any case, this is a money decree. He submits that if stay is granted, Applicant is directed to deposit entire awarded amount in the Reference court.

6 Considering the submissions made by the learned counsel for the Applicant and as Reference Court awarded additional compensation of more than Rs.1 crore, I am satisfied that the Applicant has made out a case for allowing the present Civil Application. Hence, the following order:

A. Civil Application is allowed in terms of prayer clause (b) on condition that Applicant to deposit entire awarded amount along with interest in the Reference Court on or before 30.09.2019, failing which, Civil Application shall stand dismissed without referring back to the court. Prayer clause (b) reads thus:

"(a) that this Hon'ble Court be pleased to stay the operation and/or execution and/or implementation of the Judgment and Award dated 23.02.2017 passed by the Learned Civil Judge, Senior Division, Alibag, District Raigad in L.A.R. No.273 of 2016, till the hearing and final disposal of the above mentioned First Appeal."

B. If amount is deposited within stipulated time as stated hereinabove, Reference Court is directed to invest entire amount in fixed deposit of any nationalised bank initially for a period of one year and same be continued till further orders.

C. Liberty granted to the Claimant to make appropriate Application for withdrawal of amount and that Application be decided on its own merits.

D. Civil application stands disposed of accordingly.

(K.K.TATED, J.)