

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

Civil Application No.462/2019

in

First Appeal No.135/2019

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 : SEPTEMBER 6, 2019

P.C.

1 Heard. By this Civil Application, the Applicant is seeking stay to the operation and implementation of the judgment and award dated 23.02.2017 passed by the Civil Judge, Senior Division Alibaug at Raigad in LAR No.257/2016 holding that the Respondent-Claimants are entitled to sum of Rs.1,03,95,970/- by way of compensation in respect of the acquired land.

2 The learned AGP submits that in the present proceedings the Special Land Acquisition Officer issued Notification dated 25.07.1991 u/s.4 of the Land

Acquisition Act, 1894 and acquired Respondent-Claimant's land from village Shemtikhar, Tq. Uran, Dist. Raigad for New Mumbai Project. After following due process of law, the Special Land Acquisition Officer declared award u/s.11 of the said Act on 03.09.1994 holding that the Respondent-Claimants are entitled to sum of Rs.98,571/- by way of compensation in respect of the acquired land. She submits that thereafter the Respondent-Claimant preferred Reference u/s.28-A(3) of the Land Acquisition Act, 1894 on 28.04.2016 and claimed additional compensation in respect of the acquired land @ Rs.3,000 psm. She submits that the Reference Court without considering the evidence on record particularly the sale instances held that the Respondent-Claimant is entitled to additional compensation in respect of the acquired land to the tune of Rs.1,03,95,970/-. She submits that they have good chance of success in the matter.

3 The learned AGP submits that if the entire amount is recovered by the Respondent-Claimant by filing execution application, then nothing will survive in

the present proceedings. She submits that pending the hearing and final disposal of the First Appeal this Hon'ble Court be pleased to stay the operation and implementation of the impugned judgment and award passed by the Reference Court.

4 Considering the submissions made by the learned AGP and as the Reference Court has granted additional compensation of more than Rs.1 crore in respect of the acquired land, I am satisfied that the Applicant has made out a case for allowing the Civil Application subject to the Applicant depositing the entire awarded amount along with interest and costs in the Reference Court.

5 Hence, following order is passed:

a. The Civil Application is allowed in terms of prayer clause (b) subject to the Applicant depositing the entire awarded amount along with interest and costs in the Reference Court on or before 22.11.2019 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 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 LAR No.257/2016 till the hearing and final disposal of the above mentioned First Appeal.”

b. The Reference Court is directed to invest the same 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 hearing and final disposal of the appeal.

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. The Civil Application stands disposed of accordingly.

e. No order as to costs.

(K.K.TATED, J.)