

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

Civil Application No.463/2019

in

First Appeal No.136/2019

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 in LAR No.270/2016 holding that the Respondent-Claimants are entitled to additional compensation of Rs.18,15,198/-.

2 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 on 25.07.1991 for acquiring the Respondent-Claimant's land for New

Bombay Project. She submits that after following due process of law the Special Land Acquisition Officer declared award u/s.4 of the said Act and awarded compensation of Rs.18,841/- in respect of the acquired land. She submits that the Respondent-Claimant being aggrieved by the said award, preferred Reference u/s.28-A(3) of the said Act and claimed compensation of Rs.3000/- PSM. She submits that the Reference Court, without considering the evidence on record held that the claimants are entitled to compensation in respect of the acquired land @ Rs.8500/- PSM. 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 in any case the compensation awarded by the Reference Court is on higher side. 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.

4 Considering the submissions made by the learned AGP the averments made in the Civil Application and as the Reference Court has awarded additional compensation of Rs.18,15,198/- 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 along with interest, costs.

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 Tribunal within six weeks from today, 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, Dist. Raigad in LAR No.270/2016 till the

hearing and final disposal of the above mentioned First Appeal.”

- b. The Tribunal is directed to invest the 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 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.)