

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION No. 2154 OF 2019
IN
FIRST APPEAL (ST) No. 17504 OF 2017

The State of Maharashtra
Through Special Land
Acquisition Officer ...Applicant

Vs.

Shri Ramesh Kashinath
Patil and Ors. ...Respondents

Mr. A.R. Patil -AGP for the Applicant
Mr. Sanjay A. Ghaisas for Respondent Nos. 1 to
9

CORAM: K.K. TATED, J.

DATED : JUNE 26, 2019

P.C. :

1. Heard learned counsel for the parties.
2. By this civil application, the Applicant-State of Maharashtra is seeking stay of the operation and implementation of the judgment and award dated 5th December, 2016 passed by the Learned Civil Judge, Senior Division, Alibag, Dist. Raigad in L.A.R. No. 298 of 2016 holding that the Respondents/Original Claimants are entitled additional compensation in respect of the acquired land to the tune of

Rs.87,57,482/-.

3. Learned AGP for the Applicant submits that in the present proceeding, the Special Land Acquisition Officer issued Notification under Section 4 of the Land Acquisition Act dated 24th September, 1986 for acquiring Respondents'/Original Claimants' land from village Bokadvira, Taluka Uran, Dist. Raigad for the purpose of "New Bombay Project". He submits that after following due process of law, the Special Land Acquisition Officer declared award under Section 11 of the Land Acquisition Act and awarded compensation of Rs.1,46,470/- in respect of the land acquired. Being aggrieved by the said amount awarded by the Special Land Acquisition Officer, the Respondents preferred Reference under Section 18 of the Land Acquisition Act, claiming for enhanced compensation of acquired land @ Rs.1,500/- PSM along with other statutory benefits.

4. The learned AGP submits that the Reference Court, without considering the evidence on record, awarded enhanced compensation @ Rs.600/- PSM by Judgment and Award dated 5th December, 2016.

5. The learned AGP for the Applicant submits that they have good chance of success in the present proceeding. He submits that if the entire awarded amount is recovered by the Respondent, by filing execution application, then nothing will survive in the present First Appeal. He 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 dated 5th December, 2016.

6. On the other hand, learned counsel Mr. Sanjay Ghaisas for Respondent Nos. 1 to 9 submits that, Reference Court awarded compensation the same has been given on the basis of the earlier judgment in Land Acquisition Reference at Exhibit 28. He submits that there is a money decree passed by the Trial Court. Therefore, there is no question of passing blanket stay. He submits that if the stay is granted, then the Applicant may be directed to deposit the entire awarded amount with interest in Reference Court and allow the Respondents to withdraw the same during the pendency of the First Appeal.

7. I heard both the counsels at length. It is to be noted that the Reference Court awarded additional compensation in respect of the acquired land more than Rs.80,00,000/-. It seems that at the time of awarding the compensation, the Reference Court has not considered the sale instances placed on record. Considering the submissions made by the learned AGP for the Applicant, the averments made in the civil application and as the Reference Court awarded additional compensation of Rs.600/- PSM. in respect of the acquired land with statutory benefits, I am satisfied that the Applicant has made out a case for allowing this civil application, but at the same time, they have to deposit the entire awarded amount in the Reference Court.

5. Hence, following order:

(a) Civil Application is allowed in terms of prayer clause (b), on condition that the Applicant to deposit the entire awarded amount with interest in Reference Court on or before 31st August, 2019 failing which civil application shall stand dismissed without referring back 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 05.12.2016 passed by the Learned Civil Judge, Senior Division, Alibag, District Raigad, in L.A.R. No. 298 of 2016 till the hearing and final disposal of the above mentioned First Appeal.”

(b) If the entire awarded amount is deposited by the Applicant within stipulated time as stated hereinabove, the Reference Court to invest the same in fixed deposit of any Nationalized Bank, initially, for a period of one year and same to be continued till further orders.

(c) Liberty is granted to the Respondents/Original Claimants, if he so desires, to prefer appropriate application for withdrawal of the awarded amount and that application be decided on its own merits.

(d) Civil Application stands disposed of accordingly.

(e) No order as to costs.

(K. K. TATED, J.)