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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
CIVIL APPLICATION NO.3007 OF 2019
IN
FIRST APPEAL ST.NO.16795 OF 2019

The State of Maharashtra ...Applicant
vs.
Smt.Suganda Ganesh Mhatre & Ors. ...Respondents

Mr.Yogesh Dabke, AGP for the Applicant

CORAM :K.K.TATED,J.
DATE : SEPTEMBER 5, 2019

P.C.:

- 1 Heard learned AGP for the Applicant.
- 2 By this Civil Application, Applicant is seeking stay of operation and implementation of judgment and award dated 4.10.2017 passed by the learned Civil Judge (S.D.), Alibag, in LAR No. 258 of 2016 holding that the respondents are entitled to a sum of Rs.79,12,998/- by way of additional compensation in respect of the 5670 sq meter land from survey Nos.2/2, 23/1, 29/2, 31/8 and 40/2 from Village Shematikhar, Taluka Uran, District Raigad.
- 3 The learned AGP for the Applicant submits that, the Reference Court held that respondents are entitled to additional compensation of Rs. 79,12,998/- relying on previous Judgment in LAR No.629 of 2000 only.
- 4 The learned AGP submits that the SLAO issued notification dated 25.7.1991 under section 4 of the Land Acquisition Act for acquiring the respondent's land from village Shemtikhar, Taluka Uran, District Raigad for New Bombay Project. He submits that after following due process of law,

SLAO passed Award u/s.11 of the said Act on 3.9.1994 and awarded compensation of Rs.77,156/- in respect of the acquired land. He submits that being aggrieved by the said Award passed by the SLAO, the respondents original claimants preferred Reference under the said Act for enhanced compensation @ Rs.3000/- PSM on 16.9.2016.

5 The learned AGP for the Applicant submits that the Reference Court erred in coming to the conclusion that, the respondents are entitled to additional compensation in respect of the acquired land to the tune of Rs.79,12,998/-. He submits that the compensation awarded by the Reference Court is on the higher side. He submits they have good chance of success in the present matter. He submits that in the interest of justice, this Hon'ble Court be pleased to stay the operation and implementation of the Judgment and Award passed by the Reference Court. He submits that if entire amount is recovered by the Respondents Claimants in Execution Application, then nothing will survives in this First Appeal.

6 Considering the submissions made by the learned AGP for the Applicant and observations made by the Reference Court, I am satisfied that Applicant has made out a case for allowing this Civil Application.

7 Hence, the following order is passed:

a) Civil Application is allowed in terms of prayer clause (b) on condition that Applicant to deposit the entire awarded amount with interest in the Reference Court on or before 30.11.2019, failing which 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 execution, operation and implementation of the Judgment and Award dated 4.10.2017 passed by the learned Civil Judge, Senior Division, Alibag in LAR No.258 of 2016 till the hearing and final disposal of the above mentioned First Appeal.”

- b) The Reference Court is directed to invest the amount in fixed deposit of any nationalised bank, initially for a period of one year and same to be continued till further order.
- c) Liberty is granted to the Respondents-Claimants, if they so desire, to prefer an appropriate application for withdrawal of amount and that to be decided on its own merits.
- d) Civil Application stands disposed of accordingly.
- e) No order as to costs.

(K.K.TATED,J.)