

ssp

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
CIVIL APPLICATION NO.745 OF 2016 IN
FIRST APPEAL ST.NO.19043 OF 2015

Maharashtra Krishna Valley
Development Corporation ...Applicant
vs.
Sadashiv Govind Kangude & Ors. ...Respondents

Mr.D.D.Shinde for the Applicant
Ms Tanaya Goswami,AGP for respondent Nos.2 & 3
Mr.Abhijeet Singh I/b Pallavi Potnis for respondent
No.1

CORAM : K.K.TATED, J.
DATE : AUGUST 27, 2019

P.C.:

1 Heard learned Counsel for the parties.
2 By this Civil Application, the Applicant is seeking stay of the operation and implementation of the Judgment and Award dated 25th September 2014 passed by the Reference Court in Reference No.756 of 2002 holding that the Respondents original Claimants are entitled to a sum of Rs.38,35,754/- by way of additional compensation with interest @ 12% p.a. from the date of filing of the petition till realisation of the entire amount.

3 The learned counsel for the applicant submits that it remained on their part to deposit the amount as per earlier order dated 25.2.2016.

4 The learned Counsel for the Applicant submits that the SLAO issued notification dated 18.9.1997 for acquiring respondents'-claimants' land for Temghar project. He submits that after following due process of law, SLAO declared Award dated 22.9.2000.

5 Being aggrieved by the said Award, respondents-claimants preferred LAR under section 18 of the Land Acquisition Act. The Reference Court awarded additional compensation for acquired property to the tune of Rs.38,35,754/- which is on higher side. Hence they preferred the present Appeal.

6 The learned counsel for the applicant submits that they have good chance of success in the present matter. He submits that if entire amount is recovered by the Respondents Claimants in Execution Application, then nothing will survive in this First Appeal. He submits that in the interest of justice, this Hon'ble Court be pleased to stay the operation and implementation of the award passed by the Reference Court.

7 The learned counsel for the respondents-claimants opposed this application. He submits that the Reference Court after considering the evidence on record granted market value of the acquired property to the claimants. Therefore, there is no question of granting any stay. If stay is granted, the applicant may be directed to deposit entire amount with interest awarded by the Reference Court

with permission to the applicant for withdrawal of the same.

8 Considering the submissions made by the learned counsel for the applicant and the observations made by the Reference Court after considering the evidence on record, I am satisfied that the applicant has made out a case for allowing the application subject to condition.

7 Hence, the following order is passed:

a) Civil Application is allowed in terms of prayer clause (a) on condition that Applicant to deposit the entire awarded amount with interest in the Reference Court on or before 5th October 2019, failing which Civil Application shall stand dismissed without further reference to the Court. Prayer clause (a), reads thus:

"a) Pending the hearing and final disposal of above First Appeal, an operation, execution and implementation of impugned Judgment and Award 25th June 2014 passed by the learned District Judge-17, Pune in Reference Petition No.756 of 2002 be kindly stayed."

b) If amount is deposited within stipulated time, 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.)