

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

Civil Application No.221/2019
in
Civil Application No.4264/2018
in
First Appeal No.36/2019

Office Notes, Office
Memoranda of Coram,
appearances, Court's
orders or directions
and Registrar's orders

Court's or Judge's orders.

Mr. T. S. Ingale for the Applicant
Mr. M. L. Patil for the Respondent

CORAM : K.K.TATED.J.
DATED : JUNE 24, 2019

P.C.

1 Heard. By this Civil Application, the Applicant is seeking permission to withdraw the amount deposited by the Appellant acquiring body to satisfy the judgment and award dated 31.05.2014 passed by the Reference Court in LAR No.71/2005.

2 The learned counsel for the Applicant submits that in the present proceedings the Appellant the Nasik Municipal Corporation had acquired their land. He submits that the Special Land Acquisition Officer by award dated 26.10.2014 awarded compensation @ Rs.261/- PSM. He submits

that being aggrieved by the said award, they preferred Reference u/s.18 of the Land Acquisition Act, 1894 and claimed enhanced compensation. He submits that the Trial Court, after considering the evidence on record and sale instance held that the claimants are entitled to compensation @ Rs.850/- PSM.

3 The learned counsel for the Applicant submits that they need the said amount for future project and trust activities. He submits that the First Appeal may take some time for final disposal. He submits that in the interest of justice, this Hon'ble Court be pleased to permit the amount deposited by the Appellant acquiring body as per the award passed by the Reference Court. He submits that if the application is not allowed irreparable loss will be caused to them.

4 On the other hand the learned counsel for the Appellant acquiring body submits that if the entire amount is withdrawn by the claimants, then nothing will survive in the present proceedings and it will be very difficult for them to recover the same. Therefore, there is no substance in the Civil Application.

5 It is to be noted that the Appellant acquired the Applicant's land as per the Land Acquisition Act, 1894. Initially, the Special Land Acquisition Officer awarded sum of Rs.261/- PSM. The Reference Court considering the evidence on record held that the claimants are entitled to Rs.850/- PSM.

6 Considering the fact that the Applicant is a Public Trust and they need some amount for their activities, the Applicant can be permitted to withdraw some amount without furnishing any security, subject to outcome of the First Appeal.

7 Hence, following order is passed:

a. The Applicant is permitted to withdraw 50% of the awarded amount with accrued interest without furnishing any security, subject to outcome of the First Appeal and remaining 50%, by furnishing solvent security to the satisfaction of the Trial Court, on or before 30.09.2019.

b. The Reference Court is directed to invest the remaining amount, if any, 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 further orders.

c. The Civil Application stands disposed of accordingly. No order as to costs.

(K.K.TATED, J.)