

**FARAD CONTINUATION SHEET
IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

**CIVIL APPLICATION NO.2307 OF 2019
IN
FIRST APPEAL NO.830 OF 2019**

Office Notes, Office Memoranda of Coram, Appearances, court's orders or directions and Registrar's orders	Court's or Judge's orders
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Mr.A.R.Patil, A.G.P. for the applicant

**CORAM : K. K. TATED, J
DATE : AUGUST 7, 2019**

P.C.:

. Heard.

2 By this Civil Application, Applicant is seeking stay of the operation and implementation of the impugned judgment and award dated 3.12.2013 passed by learned 2nd Joint Civil Judge, Senior Division, Nashik in L.A.R.No.188 of 2004 holding that the Respondent original Claimant are entitled additional compensation in respect of acquired land.

3 The learned A.G.P. for the Applicant submits that in the present proceedings, Special Land Acquisition Officer issued notification under section 4 of the Land Acquisition Act, 1894 dated 1.10.2002 for acquiring Respondent original Claimants land from village Harsul, Tal & Dist. Nashik for Minor Irrigation Project of Waigholpada Right Canal. He submits that after following due process of law, Special Land Acquisition Officer declared award under section 18 of the said Act dated 2.8.2003 and held that Respondent original Claimant is entitled compensation of Rs.29,415/-.

4 Being aggrieved by the said Award, Respondent original Claimant preferred reference under section 18 of the Land Acquisition Act claiming enhanced compensation. The learned A.G.P. submits that without considering the evidence on record, Reference Court held that the Respondent original Claimant is entitled enhanced compensation in respect of acquired land. He submits that they have good chance of success in the present matter. He submits that if entire amount is recovered by the Respondent original Claimant by filing Execution Application then nothing will survive in the

present proceeding.

5 The learned A.G.P. 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 till the hearing and final disposal of the First Appeal.

6 It is to be noted that in the present proceeding, Reference Court held that Respondent original Claimant are entitled additional compensation of Rs.1,85,877/-.

7 Considering the submissions made by the learned counsel for the Applicant and the reasons given by the Reference Court, I am satisfied that the Applicant has made out a case for allowing the Civil Application but at the same time, they have to deposit entire awarded amount with interest within particular time. Hence, following order is passed:

A. Civil Application is allowed in terms of prayer clause (b) on condition that Applicant to deposit entire awarded amount in the Tribunal on or before 19.10.2019, 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, execution and implementation of the Judgment and Award dated 03.12.2013 passed by Learned 2nd Joint Civil Judge, Senior Division, Nashik in L.A.R.NO.188 of 2004, till the hearing and final disposal of the above mentioned First Appeal."

b. If amount is deposited within stipulated time as stated hereinabove, Reference Court is directed to invest the said amount in fixed deposit of any nationalized bank initially for a period of one year and same be continued till further orders.

c. Liberty granted to the Applicant to prefer an appropriate application for withdrawal of amount, if they so desire, which will be decided on its own merits.

d. Civil Application stands disposed of accordingly.

(K.K. TATED, J.)