

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

**CIVIL APPLICATION NO. 3708 OF 2019
IN
FIRST APPEAL (ST) NO. 19879 OF 2019**

The State of Maharashtra	..Applicant.
Versus	
Smt. Leelabai Ambaji Patil and Anr.	..Respondents.

Mr. A. R. Patil, A.G.P. for State. _____

**CORAM : K. K. TATED &
SARANG V. KOTWAL, JJ.**

DATED : 27th November, 2019.

PC :

1. Heard the learned A.G.P. for the applicant.
2. By this Civil Application, the applicant is seeking stay of the Judgment and Award dated 29/07/2017 passed by the learned Joint Civil Judge, Senior Division, Alibag, in L.A.R. No. 484 of 2000 (Old L.A.R.No.90 of 1990).
3. Learned A.G.P. appearing on behalf of the applicant submit that, in the present proceeding, the Special Land Acquisition Officer has issued a notification under Section 4(1)(b) of the Land Acquisition Act dated 24/09/1986 for acquiring the respondent's land situate at village Wadghar, Taluka Panvel, District Raigad for New

Bombay project. He submits that, after following due process of law, the Special Land Acquisition Officer declared the Award U/s.11 of the said Act on 20/03/1989 and awarded compensation of Rs.2,23,760/- by way of compensation in respect of the acquired land. He further submit that, being aggrieved by the said Award, the respondents preferred Reference U/s.18 of the Land Acquisition Act and claimed compensation in respect of the acquired land at the rate of Rs.2000/- per square meter.

4. Learned A.G.P submits that, the Reference court, without considering the evidence on record, held that, the respondents are entitled compensation @ Rs.1725/- per square meter. He submits that amount awarded by the Reference Court, is on higher side. He submits that if the entire amount is recovered by the respondents by filing execution application, then nothing will survive in the present proceeding. He submit that, pending the hearing and final disposal of the First Appeal, this Hon'ble Court be pleased to stay the operation and implementation of the impugned Judgment and Award passed by the Reference court.

5. It is to be noted that, in the present proceeding, Special Land Acquisition officer has awarded sum of Rs.2,23,760/- by way of compensation, whereas, the Reference court by the impugned Judgment and Award, awarded total compensation of Rs.8,71,61,266/-.

6. Considering these facts and the decision given by the Reference Court, we are 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 with interest and cost in the Reference court.

7. Hence, the following order:

a) The Civil Application is allowed in terms of prayer clause (b), on condition that, the applicant shall deposit entire awarded amount with interest and cost, if any, in Reference Court, on or before 29/02/2020, failing which the 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 29.07.2017 passed by the Learned Joint Civil Judge, Senior Division, Alibag in L.A.R. No.484 of 2000 (Old L.A.R.No.90/1990), till the hearing and final disposal of the above mentioned First Appeal.”

c) If the amount is deposited within time, the Reference court is directed to invest the entire amount in Fixed Deposit Account of any Nationalized bank, initially for the period of one year and the same is to be continued till further order.

d) Liberty is granted to the respondent/claimants, if they so desire, to prefer

appropriate application for withdrawal of the amount and that will be decided on its own merit.

e) The Civil Application stands disposed of accordingly.

f) No order as to costs.

(SARANG V. KOTWAL, J.)

(K.K.TATED, J.)
