

Vidya Amin

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION NO. 441 OF 2017
IN
FIRST APPEAL NO. 86 OF 2017

The State of Maharashtra ... Applicant
Vs.
Pandharinath Vishwanath Pingale & Ors. ... Respondents

Mr. A.R. Patil, AGP for the applicant.

CORAM: **K.K. TATED, J.**
DATE: **20th June, 2019**

P.C.:

Heard learned AGP Mr. Patil for the applicant.

2. Liberty granted to the applicant to carry out amendment in prayer clause during the course of the day.

3. By this Civil Application, the Applicant is seeking stay to the operation and implementation of the judgment and award dated 29th April, 2000 passed by the learned Joint District Judge, Nashik in L.A.R. No. 25 of 1992.

4. Learned AGP for the Applicant submitted that in the present proceedings, the Special Land Acquisition officer issued Notification

under section 4 of Land Acquisition Act, 1894 for acquiring respondents/original claimants land for construction of Waghad Project Right Canal No. 13. He submits that after following due process of law, the Special Land Acquisition Officer passed award dated 26th March, 1991 and awarded compensation in respect of the acquired land @ Rs.15,000/- per hectare for Jirayat Group No. II, Rs.20,000/- per hectare for Jirayat Group No. III, Rs.25,000/- per hectare for Jirayat Group No. IV and Rs.37,500/- per hectare for Bagayat land. The learned AGP submits that being aggrieved by the said award, respondents-claimants preferred Reference under section 18 of the Land Acquisition Act and claimed compensation in respect of acquired land at the rate of Rs.2,00,000/- per hectare.

5. Learned AGP submits that the Reference Court without considering the evidence on record held that the respondents/claimants are entitled to compensation at the rate of Rs.1,50,000/- per hectare. He submits that the compensation awarded by the Reference Court is higher than the market value prevailing on the date of issuing Notification under section 4 of Land Acquisition Act.

6. Learned AGP submits that if the entire amount is recovered by the respondent/claimant by filing execution application, then nothing will survive in the First Appeal. He submits that in the interest of justice, this Hon'ble Court be pleased to stay the impugned judgment and award till hearing and final disposal of the first appeal. He submits that if stay is not granted, irreparable loss will be caused to them.

7. Considering the submissions made by the learned AGP and the fact that the Reference Court has awarded compensation @Rs.1,50,000/- per hectare, I am satisfied that the applicants have made out a case for following order, but at the same time, they have to deposit the entire award with interest in the Reference Court:

- (i) The Civil Application is allowed in terms of prayer clause (b), which reads as follows, on condition that the applicant to deposit the entire awarded amount with interest in the Reference Court on or before 31.08.2019, failing which Civil Application shall stand dismissed without further reference to the court.

- (b) that this Hon'ble Court be pleased to stay the operation, execution and implementation of the

impugned judgment and award passed by the learned Joint District Judge, Nashik on 29.04.2000 in L.A.R. No. 25 of 1992 till the hearing and final disposal of above mentioned first appeal.”

- ii) If the amount is deposited within the stipulated time as stated hereinabove, the Reference Court is directed to invest the entire amount in a fixed deposit of any Nationalized Bank, initially for a period of one year and same to be continued till further orders.
- (iii) Liberty is granted to the respondents/original claimants, if they so desire, to prefer an application for withdrawal of the amount and that application to be decided on its own merits.
- (iv) Civil Application stands disposed of accordingly. No order as to costs.

(K.K. TATED, J.)