

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION NO. 1251 OF 2018
IN
FIRST APPEAL (ST) NO. 22455 OF 2017

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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Ms. Tanaya Goswami, AGP for the Applicant.
Mr. Sandeep Mahadik I/b Jayesh Joshi for Respondent.

CORAM: K.K.TATED, J.
DATED : 23/09/2019

P.C.

1 Heard learned Counsel for the Applicant.

2 By this Civil Application, the Applicant is seeking stay of the operation and implementation of the Judgment and Award dated 12.08.2016 passed by the learned Civil Judge, Senior Division, Alibag, Raigad in LAR No. 69 of 2009 holding that the Respondent original Claimant is entitled to an additional compensation of Rs.36,42,223/- towards the acquired land.

3 The learned AGP submits that in the present proceeding, the Special Land Acquisition Officer issued notification under

Section 4 of the Land Acquisition Act dated 17.05.2007 for acquiring Respondent's land from village Amboli, Taluka Murud, District Raigad for the purpose of "Amboli Small Irrigation Scheme". She submits that by following due process of law, the Special Land Acquisition Officer by its order dated 06.06.2009 under Section 11 of the Land Acquisition Act held that Respondent Claimant is entitled to sum of Rs.1,68,539/- by way of compensation. She submits that being aggrieved by the said award, the Respondent Claimant preferred Reference under Section 18 of the L.A. Act for the compensation @ Rs.1500/- per sq. meter.

4 The learned AGP submits that the Reference Court awarded compensation in respect of acquired land on higher side. She submits that at the time of awarding additional compensation, the Reference Court failed to consider evidence on record particularly the relevant Sale instances. She submits that they have good chance of success in the present matter. She submits that in the interest of justice, this Hon'ble Court be pleased to stay the operation and implementation of the Judgment and Award passed by the Reference Court. She submits that if entire amount is recovered by the

Respondents Claimants in Execution Application, then nothing will survive in this First Appeal.

5 On the other hand, the learned Counsel for the Respondent vehemently opposed the present Civil Application. He submits that Applicant failed to disclose any cause for granting stay. He submits that if this Court came to the conclusion that the Applicant has made out case for allowing this Civil Application, in that case this Court be pleased to direct the Applicant to deposit the entire awarded amount with interest in Reference Court and permit the Respondent Claimant to withdraw the same.

6 Considering the submissions made by the learned AGP for the Applicant and averments made in Civil Application, I am satisfied that Applicant has made out a case for allowing this Civil Application.

7 Hence, the following order is passed:

a) Civil Application is allowed in terms of prayer clause (b) on condition that Applicant to deposit the entire awarded amount with interest in the Reference Court on or before 30.11.2019, failing which Civil Application shall stand dismissed without further reference to the Court. Prayer clause (b), reads thus:

“b) That this Hon'ble Court be pleased to stay the operation and/or execution and/or implementation of the Judgment and Award dated 12.08.2016 passed by the Learned Civil Judge, Senior Division, Alibag, Raigad in LAR No. 69 of 2009 (Old LAR No. 167 of 2009) till the hearing and final disposal of the above mentioned First Appeal.”

b) If amount is deposited within stipulated time, the Reference Court is directed to invest the entire 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 Respondent-Claimant, if he 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.)