

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

**CIVIL APPLICATION NO.2599 OF 2015
IN
FIRST APPEAL NO.875 OF 2015**

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 appellant

**CORAM : K. K. TATED, J
DATE : APRIL 10, 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 7.5.2013 passed by learned Civil Judge, Senior Division, Sindhudurg, Oros in L.A.R. No.5 of 1998.

3 The learned A.G.P. for the applicant submits that in the present proceeding, Special Land Acquisition Officer issued notification

under section 4 of the Land Acquisition Act dated 11.6.1991 for acquiring Respondent original Claimants land from village Kurli, Taluka Vaibhavwadi, District Sindhudurg for the purpose of Devgad Medium Irrigation Project. After following due process of law, Special Land Acquisition Officer passed award dated 22.3.1995 and awarded compensation in respect of acquired land. He submits that being aggrieved by the said award, Respondent original Claimant preferred Reference under section 18 of the Land Acquisition Act. In the said reference, Reference Court awarded compensation in respect of acquired land @ Rs.1000 per Are. He submits that at the time of awarding enhanced compensation, Reference Court failed to consider sale instance on record. He submits that they have good chance of success in the present proceeding.

4 The learned A.G.P. for the Applicant 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 passed by Reference Court. He submits that if entire amount is recovered by the Respondent Claimant in execution application then nothing will

survive in the present proceeding.

5 Considering the submissions made by the learned A.G.P. for the Applicant and the reason given by the Reference Court at the time of granting additional compensation in favour of Respondent, I am satisfied that the applicant has made out a case for allowing Civil Application but at the same time applicants have to deposit entire amount in the Reference Court along with interest. Hence, following order is passed

A) Civil Application is allowed in terms of prayer clause (b) on the condition that Applicant to deposit entire awarded amount with interest and cost in the Reference Court within 12 weeks from today, 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 7.5.2013 passed by the Learned, 2nd Joint Civil Judge, Senior Division, Sindhudurg-Oros in L.A.R. No.5 of 1998, till the hearing and final

disposal of the above mentioned First Appeal."

- B) Reference Court is directed to invest entire awarded amount in the 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 Respondent original Claimant to prefer appropriate application for withdrawal of awarded amount and that be decided on its own merits.
- D) Civil Application stands disposed of accordingly.

(K.K.TATED, J.)