

Urmila Ingale

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
CIVIL APPLICATION NO. 846 OF 2019
IN
FIRST APPEAL STAMP NO. 25211 OF 2018

The State of Maharashtra & ors. .. Applicants
Vs.
Daud Shekh Hasan Povekar (deceased)
thru. Legal heirs.
Iqbal Daud Shekh Hasan Povekar and anr. .. Respondents

Ms.Tanaya Goswami, AGP for State.

CORAM : K.K.TATED, J.

DATE : 20th AUGUST, 2019

P.C. :

. Heard learned AGP appearing for the applicants.

2. By this Civil Application, applicants are seeking stay of the operation and implementation of the impugned Judgment and Award dated 13/04/2017 passed by learned Civil Judge, Senior Division, Mahad, District - Raigad in Land Acquisition Reference No. 33 of 2006 holding that the respondents – original claimants are entitled additional

compensation of Rs.1,11,50,574/- in respect of acquired land.

3. Learned AGP appearing for the applicants submits that in the present proceedings Special Land Acquisition Officer issued notification under Section 4(1)(b) of the Land Acquisition Act (hereinafter referred to as 'said Act') dated 23/08/1999 for acquiring respondent's/original claimant's land from village Mumarshi, Taluka Mahad, District Raigad for Nageshwari Dam Project. She submits that after following due process of law, Special Land Acquisition Officer declared award dated 10/10/2001 under Section 11 of the Act and awarded compensation in respect of acquired land of Rs.1,30,558/- to the respondents/ original claimants. She submits that being aggrieved by the said award, respondents – claimants preferred reference under Section 18 of the Land Acquisition Act and claimed enhanced compensation @ Rs.1,000/-per square meter. She submits that Reference Court have without considering the material on record, held that claimants are entitled additional compensation of Rs.700/- per square meter.

4. Learned AGP submits that they have good chance of success in the present proceedings. She submits that pending the hearing and final disposal of the present Appeal, this Hon'ble Court be pleased to stay the effect, operation and implementation of the judgment and award. She submits that if the entire amount is recovered by the respondents - original claimants by filing Execution Application, then nothing will survive in the present proceeding.

5. Considering the submissions made by learned AGP for the applicants and as the Reference Court awarded additional compensation of Rs.1,11,50,574/-, I am satisfied that the applicant has made out a case for allowing this Civil Application, but at the same time, they have to deposit entire awarded amount with interest in Reference Court. Hence, the following order.

ORDER

(i) Civil Application is allowed in terms of prayer clause (b) which reads thus :

“that this Hon'ble Court be pleased to stay the execution,

operation and implementation of the Judgment and Award dated 13/04/2017 passed by the Learned Civil Judge, Senior Division, Mahad, District Raigad in L.A.R. No. 33 of 2006 till the hearing and final disposal of the above mentioned First Appeal.”

on condition that applicants to deposit the entire awarded amount along with interest in Reference Court on or before 16/11/2019, failing which Civil application shall stand dismissed without further reference to the Court.

(ii) If the amount is deposited within the stipulated time as stated above, the Reference Court is directed to invest the awarded amount in a Fixed Deposit account in any Nationalised Bank, initially for a period of one year and same shall be renewed 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.

6. Civil Application stands disposed of. No order as to costs.

(K.K.TATED, J.)