

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

Civil Application No.840/2019
in
First Appeal (ST) No.25404/2018

Office Notes, Office
Memoranda of Coram,
appearances, Court's
orders or directions
and Registrar's orders

Court's or Judge's orders.

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

CORAM: K.K.TATED, J.
DATED : SEPTEMBER 4, 2019

P.C.

1 Heard. By this Civil Application, the Applicant is seeking stay to the operation and implementation of the judgment and award dated 26.07.2017 passed by the learned 2nd Jt. Civil Judge, Senior Division, Alibaug at Raigad in LAR No.27/2009 holding that the Respondent claimants are entitled to additional compensation of Rs.21,43,577/- in respect of the acquired land.

2 The learned counsel for the Applicant submits that in the present proceedings the SLAO issued Notification u/s.4 of the Land Acquisition Act, 1894 for acquiring the Respondent-Claimant's

land situated at village Tisale, Tq. Murud, Dist. Raigad for Amboli Small Irrigation 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 and awarded compensation of Rs.21,168/- to the Respondent-Claimant towards the acquired land.

3 Being aggrieved by the said award, the Respondent-Claimant filed Reference u/s.18 of the said Act. The Reference Court without considering the evidence on record held that the Respondent-Claimant is entitled to compensation @ Rs.400/- PSM. He submits that the total compensation awarded by the Reference Court is Rs.21,43,577/-.

4 The learned AGP submits that the compensation awarded by the Reference Court is on higher side. He submits that if the entire amount is recovered by the Respondent-Claimant by filing execution application, then nothing will survive in the present proceedings. He submits 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. He submits that if stay is not granted, irreparable loss will be caused to them.

5 It is to be noted that in the present proceedings the Reference Court has awarded additional compensation to the extent of Rs.21,43,577/-.

6 Considering the submissions made by the learned AGP and the impugned judgment and award, I am satisfied that the Applicant has made out a case for allowing the Civil Application, subject to the Applicant depositing the entire awarded amount in the Reference Court.

6 Hence, following order is passed:

a. The Civil Application is allowed in terms of prayer clause (b) subject to the Applicant depositing the entire awarded amount along with interest and costs in the Tribunal on or before 16.11.2019 failing which the 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 execution, operation and implementation of the judgment and award dated 26.07.2017 passed by the learned Civil Judge, Senior Division, Alibag-Raigad in LAR No.27/2009 till the hearing and final disposal of the abovementioned First Appeal.”

- b. The Tribunal is directed to invest the amount in a fixed deposit account of any Nationalized Bank, initially for a period of one year and same shall be renewed from time to time till hearing and final disposal of the appeal.
- c. Liberty granted to the claimants to prefer an appropriate Application for withdrawal of amount, if they so desire, which will be decided on its own merits
- d. The Civil Application stands disposed of accordingly.
- e. No order as to costs.

(K.K.TATED, J.)