

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
CIVIL APPLICATION No. 1738 OF 2019
IN
FIRST APPEAL (ST) No. 32303 OF 2015

The State of Maharashtra
(through the Special Land
Acquisition Officer) ..Applicant

Vs.

Shri Mangalsinha Dagadusinha
Rajput ..Respondent

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

CORAM: K.K. TATED, J.

DATED : JUNE 26, 2019

P.C. :

1. Heard learned AGP Mr. A.R. Patil for the Applicant.

2. By this civil application, the Applicant is seeking stay of the operation and implementation of the judgment and award dated 12th June, 2014 passed by the Learned Civil Judge, Senior Division, Alibag, Dist. Raigad in L.A.R. No. 45 of 1995 (Old L.A.R. No. 81 of 1995) holding that the Respondent/Original Claimant is entitled for additional compensation in respect of acquired land to the tune of Rs.7,33,500/-.

3. Learned AGP for the Applicant submits that in the proceeding, the Special Land Acquisition Officer issued Notification under Section 4 of the Land Acquisition Act dated 2nd January, 1992 for acquiring Respondent's/Original Claimant's land from Village Kolse, Taluka Panvel, Dist. Raigad for widening Mumbai Pune Highway No.4B. He submits that after due process of law, the Special Land Acquisition Officer declared award under Section 11 of the Land Acquisition Act on 11th February, 1995 and awarded compensation @35/-PSM. Being aggrieved by the said award, the Respondent/Original Claimant preferred reference under Section 18 of the Land Acquisition Act and claimed enhancement of the compensation @ Rs.10,000/- PSM.

4. Learned AGP for the Applicant submits that the Reference Court without considering the evidence on record, by its judgment and award dated 12th June, 2014 awarded additional compensation in respect of acquired land @ Rs.850/- PSM. He submits that at the time of awarding additional compensation, the Reference Court failed to consider the evidence on record, particularly, sale process. He submits

that they have good chance of success in the present proceeding. He submits that if the entire awarded amount is recovered by the Respondent/Original Claimant by filing execution application, then nothing will survive in the present First Appeal. He submits that in the interest of justice, this Hon'ble Court be pleased to stay the operation and implementation of the judgment and award during the pendency of the First Appeal.

5. Considering the submissions made by the learned AGP for the Applicant and as the Reference Court awarded sum of Rs.7,33,500/- by way of additional compensation in respect of the acquired land, 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 the entire awarded amount with interest in the Reference Court.

6. Hence, following order:

(a) Civil Application is allowed in terms of prayer clause (b), on condition that the Applicant to deposit the entire awarded amount with interest in Reference Court on or before

27th September, 2019 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 and/or execution and/or implementation of the Judgment and Award dated 12.06.2014 passed by the Learned Civil Judge, Senior Division, Alibag, District Raigad, in L.A.R. No. 45 of 1995 (Old L.A.R. No. 81 of 1995), till the hearing and final disposal of the above mentioned First Appeal.”

(b) If the entire awarded amount is deposited by the Applicant within stipulated time as stated hereinabove, the Reference Court to invest the same in fixed deposit of any Nationalized Bank, initially, for a period of one year and same to be continued till further orders.

(c) Liberty is granted to the Respondent/Original Claimant, if he so desires, to prefer appropriate application for

withdrawal of the awarded amount and that application be decided on its own merits.

(d) Civil Application stands disposed of accordingly.

(e) No order as to costs.

(K. K. TATED, J.)