

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

Civil Application No.2403/2018
in
First Appeal (ST) No.32448/2015

Office Notes, Office Memoranda of Coram, appearances, Court's orders or directions and Registrar's orders	Court's or Judge's orders.
	Mrs. Tanaya Goswami, AGP for the Applicant Mrs. Deepa Punde I/b. S. S. Punde for Respondent No.1/1 to 1/5 and 2/10

CORAM: K.K.TATED, J.
DATED : AUGUST 13, 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 29.09.2014 passed by 2nd Jt. Civil Judge, Senior Division Alibaug in LAR No.844/2000 (Old No.68/1991) holding that the Respondent-Claimant is entitled to additional compensation of Rs.73,64,974/-.

2 The learned AGP submits that in the present proceedings the SLAO issued Notification u/s.4 of the Land Acquisition Act, 1894 on 24.09.1986 for acquiring the Respondent-Claimant's land from

village Kopar, Tq. Panvel for New Bombay Project. She submits that after following due process of law the SLAO declared award u/s.11 of the said Act on 08.09.1989 holding that the Respondent-Claimant is entitled to sum of Rs.21,645.09 by way of compensation.

3 Being aggrieved by the said award, the Respondent-Claimant has preferred Reference u/s.18 of the said Act for additional compensation.

4 The learned counsel for the Appellant submits that Reference Court has only relied on the earlier judgment in LARs and held that the Respondent-Claimant is entitled to sum of Rs.5000/- PSM towards the acquired land. He submits that the compensation awarded to the Respaondent-Claimant is on higher side. He submits that the Applicant has good chance of success in the matter.

5 The learned AGP submits that if the entire amount is withdrawn by the Respondent-Claimant by filing execution application, then nothing will survive in the present proceedings. She 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.

6 On the other hand, the learned counsel for the Respondent-Claimant has vehemently opposed the Civil Application. She submits that the Reference Court on the basis of the earlier judgments in LAR arising from the same locality held that the Respondent-Claimants are entitled to additional compensation in respect of the acquired land. She submits that if this court comes to the conclusion that the Applicant has made out a case for granting stay, in that case the Applicant be directed to deposit the entire awarded amount in the Reference Court along with interest and the Respondent-Claimant be permitted to withdraw the same.

7 The Reference Court has awarded additional compensation in respect of the acquired land to the extent of Rs.73,64,974/-. Considering submissions made by the learned counsel for the

parties and the reasons given by the Reference Court, I am satisfied that the Applicant has made out a case for allowing the Civil Application.

8 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 18.10.2019 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 operation and/or execution and/or implementation of the judgment and award dated 29.09.2014 passed by the learned Civil Judge, Senior Division, Alibag, Dist. Raigad in LAR No.844/2000 (Old LAR NO.68/1991) till the hearing and final disposal of the above mentioned 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.)