

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

CIVIL APPLICATION NO.1167 OF 2016

IN

FIRST APPEAL (ST.) NO.34293 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.Yogesh Dabake, A.G.P. for the applicant

Ms.Deepa Punde i/b Mr.S.S.Punde for the
respondent

**CORAM : K. K. TATED, J
DATE : JULY 26, 2019**

P.C.:

. Heard the learned counsel for the parties.

2 By this Civil Application, Applicant is seeking stay of the operation and implementation of the impugned judgment and award passed by Reference Court in L.A.R. no.1147 of 2000 holding that Respondent original Claimants are entitled additional compensation of Rs.24,55,894/-.

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 22.4.1997 for acquiring Respondent original Claimants land from village Dhutum, Tal. Uran, District Raigad, for New Bombay project. He submits that after following due process of law, Special Land Acquisition Officer passed award under section 11 of the said Act dated 9.12.1997 and awarded sum of Rs.39,719/- in respect of acquired land by way of compensation. He submits that being aggrieved by the said award, Respondent original Claimant preferred reference under section 18 of the said Act and claimed compensation @ Rs.5,000/- per sq. meter.

4 The learned A.G.P. submits that the Reference Court without considering the evidence on record, held that Respondent original Claimants are entitled additional compensation. He submits that they have good chance of success in the present proceeding. He submits that, if entire amount is recovered by the Respondent Claimant by filing execution application, then nothing will survive in the present proceeding. 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.

5 On the other hand, the learned counsel for the Respondent original Claimant vehemently opposed the present Civil Application. She submits that Reference Court after considering the evidence on record, held that Respondents are entitled compensation in respect of acquired land. She further submits that Applicant has not placed on record any evidence to show that compensation awarded by the Reference Court is on higher side. She submits that if this court grants stay, in that case, Applicant may be directed to deposit entire awarded amount along with interest in the Reference Court. She further submits that if amount is deposited in the Reference Court, in that case, Respondent may be permitted to withdraw the same. She submits that in the present proceeding, there was delay on the part of Applicant to file the present First Appeal. She submits that though the Claimants lost their lands in the year 1997, till today they have not received full compensation. Hence, there is no substance in the present Civil Application and same be dismissed with cost.

6 Heard both the sides at length.

7 It is to be noted that in the present proceeding, Reference Court awarded additional compensation in favour of Claimant to the tune of Rs.24,55,894/- without considering the relevant sale instance on record. But in any case, this is a money decree. Hence, Applicant have to deposit entire awarded amount in the Reference Court with interest.

8 During the course of arguments, the learned counsel for the Respondent made a statement before this court that if entire amount is deposited by the Applicant in the Reference Court in that case the Respondent-Claimant may be permitted to withdraw 50% amount by providing personal bond and remaining 50% by solvent security to the satisfaction of the Trial Court. She submits that she received instructions from her client to make this statement before this court.

9 Considering the fact that the Respondent's land was acquired by the Applicant in the year 1997 and till today, they have not received full compensation, I am satisfied that the Respondent can be permitted to withdraw the amount if same is deposited by the Applicant in the Reference Court.

10 Hence, following order is passed:

A. Civil Application is allowed in terms of prayer clause (b) on condition that Applicant have to deposit entire awarded amount with interest in the Reference Court on or before 30.09.2019. 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 05.12.2014 passed by the Learned 2nd Joint Civil Judge, Senior Division, Alibag, District Raigad in L.A.R.NO.1147 of 2000 (Old L.A.R. NO.69/1998), till the hearing and final disposal of the above mentioned First Appeal."

B. If amount is deposited within stipulated time as stated hereinabove, Respondents original Claimants are permitted to withdraw 50% amount by giving personal bond and remaining 50% amount with accrued interest by giving solvent security to the satisfaction of the Reference Court on or before 30.09.2019.

C. If amount is not withdrawn within stipulated time as stated hereinabove, Reference Court is directed to invest entire amount in fixed deposit of any nationalized bank initially for a period of one year and same to be continued till further orders.

D. Civil Application stands disposed of accordingly.

E. No order as to costs.

(K.K.TATED, J.)