

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

CIVIL APPLICATION NO.2257 OF 2020 IN FAST/3987/2020

SUPER AGRICULTURAL PRODUCE MARKET COMMITTEE, JADHAVWADI,
AURANGABAD THR ITS SECRETARY
VERSUS
PANDIT KHEMCHAND HARANE AND ORS

...
Advocate for Applicant : Mr. S. S. Thombre
Advocate for Respondent No.1 : Mr. S. B. Solanke
AGP for Respondent No.2 : Mr. S. N. Morampalle

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CORAM : K.K. SONAWANE, J.

DATED : 24th FEBRUARY, 2020.

ORDER :-

Heard learned counsel for the applicant- Acquiring Body and Mr. S. B. Solanke, learned counsel for the respondent No.1 – original claimant as well as learned AGP for respondent No.2 – State of Maharashtra. Perused the application and other relevant documents produced on record.

2. The land of respondent No.1 – original claimant was acquired by the applicant- Super Agricultural Produce Market Committee, Jadhavwadi, Aurangabad (Acquiring Body), for its expansion. The notification under Section 4(1) of the Land Acquisition Act, 1894 (LA Act), was issued in the month of April-1983. Thereafter, Award under Section 11 was declared by the Land Acquisition Officer (LAO) on 26th June, 1987. But, the claimant was not satisfied with the market price offered by the LAO. Therefore, he preferred reference under Section 18 of the L.A.Act vide LAR No. 131 of 1997. The notices were issued to the applicant Acquiring Body and State of Maharashtra. But, the applicant- Market committee did not appear in the proceeding. The

circumstances constrained the Reference Court to proceed further *ex-parte* against the applicant-Market committee for adjudication of the reference petition on merit. Accordingly, on 18th January, 2019, learned Reference Court passed the impugned Judgment and Award and granted enhancement of compensation @ Rs.2500/- per R. The respondent-claimant attempted to execute the Award by filing execution proceeding before the concerned Executing Court. Thereafter, the applicant – Market committee rushed to this Court and file present application seeking condonation of delay to present an appeal against impugned Judgment and Award passed by the learned Reference Court.

3. According to learned counsel for the applicant- Market Committee, the enhancement of compensation awarded by learned Reference Court was exorbitant and excessive. It would not as per the market rate prevailing over in the area during the period of year 1983. He seeks stay to the impugned Judgment and Award passed by the learned Reference Court.

4. Learned counsel for the original claimant raised objections and submits that since year 1997 the respondent-original claimant is in queue awaiting the compensation amount as per market value of his acquired land. The applicant- Market committee did not pursue the matter and because of absence of applicant – Market committee in the original proceeding, the Reference Court adjudicated the matter *ex-parte* after efflux of colossal period up-till January, 2019. Therefore, he requested that the stay to the impugned Award would not be granted in the interest of justice.

5. Having given anxious consideration to the arguments advanced on behalf of both the sides and in view of nature of the subject matter, I find that, in order to grant interim relief of stay, the applicant-Acquiring Body is required to be directed to deposit some of the part of compensation amount allowed to be enhanced by the Reference Court. Obviously, the Award under Section 11 of L.A.Act came to be passed in the month of June-1987, and since then, the claimant was stranded for appropriate market value of his acquired land. In such circumstances, being money decree, it would justifiable to direct the applicant-Acquiring Body to deposit some of the compensation amount in the present proceeding. Definitely, it would sub-serve the purpose in the interest of justice.

6. Hence, the execution and implementation of the impugned Judgment and Award passed by learned Reference Court is hereby stayed subject to deposit of 60% of the total decretal amount with interest accrued thereon, as per Award passed by the learned Reference Court. The amount referred above should be deposited within a period of four weeks from today, failure to which, present order of stay shall stand vacated automatically without further reference to this Court and application for stay be treated as dismissed, with liberty to respondent-original claimant to avail the recourse of law for execution of the Award before Executing/ Reference Court within ambit of law.

7. Accordingly, Civil Application stands disposed of in above terms.

Sd./-

[K. K. SONAWANE]
JUDGE