

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

**CIVIL APPLICATION NO. 3874 OF 2019
IN
FIRST APPEAL (ST) NO. 20107 OF 2019**

The State of Maharashtra	..Applicant
Versus	
Kashinath Bhiva Keni (Deceased)	
Through his legal heirs:	..Respondents.

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

CORAM : K. K. TATED &
SARANG V. KOTWAL, JJ.
DATED : 02nd JANUARY, 2020.

PC :

1. Heard the learned A.G.P for the applicants.
2. By this civil application, the applicant is seeking stay of operation and implementation of the impugned Judgment and Award dated 04/09/2017 passed by the learned Civil Judge, Senior Division, Alibag in L.A.R. No. 494 of 2016 holding that the respondents/original claimants are entitled for additional compensation of Rs.2,26,77,570/- for acquiring their land.
3. Learned A.G.P. Shri. Patil for the applicant submits that, in the present proceeding, the Special Land Acquisition

Officer has issued a notification dated 24/09/1986 under section 4(1)(b) of the Land Acquisition Act for acquiring the respondent's land from village Vadhghar, Taluka Panvel, Dist. Raigad for New Bombay Project. He submits that, after following due process of law, the Special Land Acquisition Officer declared an Award U/s.11 of the said Act on 21/08/1989 and awarded sum of Rs.48,485/- in respect of that acquired land.

4. Learned A.G.P. submits that, thereafter, the respondent/claimants preferred a reference U/s.28-A(3) of the said Act claiming additional compensation @ Rs.3000/- per square meter. He submits that, the reference court without considering the evidence on record, only on relying the earlier Judgment held that the claimants are entitled for compensation @ Rs.1725/- per square meter.

5. The learned A.G.P. submits that, the compensation awarded by the reference court is at higher side. 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 Judgment and Award. He submits that if the impugned Award is not stayed then irreparable loss would be caused to them.

6. Considering the submissions made by learned AGP for the applicant and the averments made in the civil application, and as the Reference court has awarded

additional compensation to the extent of Rs.2,26,77,570/-, we are satisfied that the applicant has made out a case for allowing this civil application. But, at the same time, applicants have to deposit the entire amount with interest in the reference court.

7. Hence, the following order:

- a) The Civil Application is allowed in terms of prayer clause (b), on condition that the applicants to deposit the entire awarded amount with interest in the reference court on or before 31/03/2020, failing which the Civil Application shall stand dismissed without referring back to the court.

The 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 04.09.2017 passed by the Learned Civil Judge, Senior Division, Alibag in L.A.R. No. 494 of 2016, till the hearing and final disposal of abovementioned First Appeal”.

- b) If the entire amount is deposited in time, the reference court is directed to invest

the said amount in Fixed Deposit of any Nationalized bank for the period of one year and the same is to be continued till further orders.

- c) Liberty is granted to the respondents, if they so desire, to prefer an application for withdrawal of said amount and that application will be decided on its own merits.
- d) The Civil Application stands disposed of accordingly.
- e) No order as to costs.

(SARANG V. KOTWAL, J.)

(K.K.TATED, J.)
