

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

**CIVIL APPLICATION NO. 3872 OF 2019
IN
FIRST APPEAL (ST) NO. 20199 OF 2019**

The State of Maharashtra & Anr. ..Applicants
Versus
Shri. Ankush Rama Mhatre & Anr. ..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 applicants are seeking stay of operation and implementation of the impugned Judgment and Award dated 23/07/2018 passed by the learned Civil Judge, Senior Division, Alibag in L.A.R. No. 371 of 2016 holding that the respondents/original claimants are entitled for additional compensation of Rs.3,65,26,650/- for acquired land.
3. Learned A.G.P Shri. Patil for the applicants 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 Bokadvira, Taluka Uran, Dist.

Raigad for New Bombay Project. He submits that, after following due process of law, the Special Land Acquisition Officer declared Award U/s.11 of the said Act on 11/09/1989 holding that the applicants are entitled for compensation of Rs.85,874/-. He submits that the respondent/claimants preferred a reference U/s.28-A(3) of the said Act claiming compensation @ Rs.2000/- per square meter. He submits that, the reference court without considering the evidence on record, only on relying the earlier Judgment hold that the claimants are entitled for compensation @ Rs.1725/- per square meter.

4. The learned A.G.P submits that they have good chance of success in the present matter. He submits that if the entire amount is recovered by the respondents by filing execution application, then nothing will survive in the present proceeding.

5. Considering the submissions made by learned AGP for the applicants and the averments made in the civil application, and as the Reference court has awarded additional compensation to the extent of Rs.3,65,26,650/-, we are satisfied that the applicants have made out a case for allowing this civil application. But, at the same time, they have to deposit the entire amount with interest in the reference court.

6. 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 23.07.2018 passed by the Learned Civil Judge, Senior Division, Alibag in L.A.R. No. 371 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 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 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.)
