

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION NO. 238 OF 2020
IN
FIRST APPEAL (ST) NO. 22644 OF 2019

State of Maharashtra ... Applicant

V/s.

Mr. Sandeep Madhukar Mhatre and Ors. ... Respondents

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

**CORAM: K.K.TATED, &
SARANG V. KOTWAL JJ.
DATE : 4th MARCH 2020**

P.C.

1 Heard learned AGP for applicant.

2 By this Civil Application, Applicant State of Maharashtra is seeking stay of operation and implementation of the judgment and award dated 16.01.2018 passed by the Civil Judge, Senior Division, Alibag in L.A.R. No. 63 of 2016 holding that Respondents Claimants are entitled to additional compensation in respect of acquired land.

3 The learned AGP submits that in the present proceeding, the Special Land Acquisition Officer issued notification under Section 4 of the Land Acquisition Act dated 24.09.1986 for acquiring Respondent's land from village Bokadvira, Taluka Uran, District Raigad for New Bombay project. He submits that by following due

process of law, the Special Land Acquisition Officer declared Award and awarded compensation. He submits that being aggrieved by the said award, the Respondent preferred application under Section 28-A of the Land Acquisition Act on 23.10.2013 on the basis of judgment and award passed in LAR in 546 of 2020 dated 02.09.2013. He submits that SLO declared an Award dated 06.01.2016 under Section 28-A of the Land Acquisition Act and awarded market value of the acquired land to the Respondents claimants.

4 The learned AGP submits that the Claimants being aggrieved by the Award under Section 28-A of the said Act, preferred Reference under Section 28-A(3) of the Land Acquisition Act on 17.02.2016 claiming compensation @ Rs.2000/- per square meter. He submits that the Reference Court relying on the previous judgment held that Claimants are entitled compensation @ 1725/- per sq. meter.

5 The learned AGP submits that the Reference Court awarded compensation in respect of acquired land on higher side. He submits that they have good chance of success in the present matter. He submits that in the interest of justice, this Hon'ble Court be pleased to stay the operation and implementation of the Judgment and Award passed by the Reference Court. He submits that if entire amount is recovered by the Respondents Claimants in Execution Application, then nothing will survives in this First Appeal.

6 Considering the submissions made by the learned AGP for the Applicant and averments made in Civil Application, we are satisfied that Applicant has made out a case for allowing this Civil Application, but at the same time, they have to deposit entire awarded amount with accrued interest in the Reference Court.

7 Hence, the following order is passed:

a) Civil Application is allowed in terms of prayer clause (b) on condition that Applicant to deposit the entire awarded amount with interest in the Reference Court on or before 30.06.2020, failing which 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 16.01.2018 passed by the Learned Civil Judge, Senior Division, Raigad-Alibag in LAR No. 63 of 2016 till the hearing and final disposal of the above mentioned First Appeal.”

b) If amount is deposited within stipulated time, the Reference Court is directed to invest the entire amount in fixed deposit of any nationalised bank, initially for a period of one year and same to be continued till further order.

c) Liberty is granted to the Respondents-Claimants, if

they so desire, to prefer an appropriate application for withdrawal of amount and that to be decided on its own merits.

d) Civil Application stands disposed of accordingly. No order as to costs.

(SARANG V. KOTWAL, J.) (K.K.TATED, J.)