

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

Trusha
T.
Mohite
Digitally
signed by
Trusha T.
Mohite
Date:
2021.01.07
11:29:27
+0530

**CIVIL APPLICATION NO.3916 OF 2019
IN
FIRST APPEAL (ST.) NO.20240 OF 2019**

The State of Maharashtra .. Applicant

vs.

Sunder Manik Patil and Ors. .. Respondents

.....

Mr.Y.Y.Dabke, A.G.P. for the State

.....

**CORAM: K.K.TATED &
N. R. BORKAR, JJ.
DATED : JANUARY 05, 2021**

P.C.

. Heard.

2. By this Civil Application, applicant is seeking stay of the operation and implementation of the judgment and award dated 08.01.2018 passed by the learned Civil Judge, Senior Division, Alibag in L.A.R. No.339 of 2016 till the hearing and final disposal of the First Appeal.

3. The learned A.G.P. for the applicant submits that in the present proceeding, Reference Court awarded additional compensation of Rs.3,09,03,144/- whereas the amount awarded by the Special Land Acquisition Officer is

Rs.2,89,735/-. Hence, they preferred the present application.

4. In the present proceeding, Special Land Acquisition Officer issued notification under section 4 of the Land Acquisition Act dated 25.07.1991 for acquiring respondents original claimants land situated at village Shemtikar, Tal. Uran, Dist. Raigad for New Bombay Project. After following due process of law, S.L.A.O. passed award dated 03.09.1994 and awarded compensation of Rs.2,89,735/-. Thereafter, respondents original claimants preferred Reference under section 28A of the Land Acquisition Act on 30.01.2014 on the basis of judgment in L.A.R. No.16 of 1996 dated 31.10.2013. In the said reference, respondent original claimants claimed compensation @ Rs.5,000/- per sq. meter. Reference Court awarded sum of Rs.850 per sq.meter in favour of the respondents by judgment and award dated 08.01.2018.

5. Bare reading of the impugned judgement shows that reference court failed to consider the sale instance and the earlier judgment passed by Reference Court in Land Acquisition Reference in which notification under section 4 was issued on the same date. Not only that, enhanced compensation is more than Rupees three crores. Therefore, we are of the opinion that applicant has made out a case for allowing the Civil Application, but at the same time, they have to deposit entire awarded amount in the Reference Court. Hence, following order:

- a. Operation and implementation of the impugned judgment and award dated 08.01.2018 passed by Civil Judge, Senior Division, Alibag in L.A.R. No.339 of 2016 is stayed till the hearing and final disposal of First Appeal on the condition that applicant to deposit entire awarded amount along with interest in the reference court on or before 30.04.2021.
- b. If amount is deposited within time, reference court is directed to invest entire amount in fixed deposit of any nationalised bank initially for a period of one year and same be continued till further orders.
- c. If amount is not deposited within time, respondents claimants are entitled to execute the award according to law.
- d. If amount is deposited within time, liberty granted to the respondents claimants to prefer appropriate application before this court for withdrawal of the amount and that be decided on its own merits, according to law.
- e. Civil application stands disposed of accordingly.
- f. No order as to costs.

(N. R. BORKAR, J.)

(K.K.TATED, J.)