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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

INTERIM APPLICATION NO.2542 OF 2019
IN
FIRST APPEAL (ST.) NO.28864 OF 2019

Municipal Corporation of Greater
Mumbai

... Appellant

Versus

Surya Kirti Enterprises & Anr.

...Respondents

Mr. S.K. Mishra, Senior Counsel with Shital Mane - Tadke for the Applicant.

Mr. Vishwajit Sawant, Senior Advocate with Kirit J. Hakani with Niyati Hakani with Fenil Sangoi for the Respondents.

CORAM : K.K. TATED &
R.I. CHAGLA, JJ.

DATE : 10TH FEBRUARY, 2021

ORDER :

1. Heard learned Counsel for parties.
2. By this Interim Application the Appellant is seeking stay of the operation and implementation of award dated 11th Juy, 2019 passed by the Presiding Officer, Land Acquisition, Rehabilitation and Resettlement Officer, Nagpur in Application

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No.17/KOK/MUM (SU)/2018 holding that the Respondents / Claimants are entitled for additional compensation of Rs.6,56,45,527/- in respect of land admeasuring 306.60 Sq.mtrs situated at Mauje - Ghatkopar, Kirol, Taluka Kurla, Dist. Mumbai Suburban District. He has submitted that in the present proceedings earlier compensation was awarded to the tune of Rs.2,06,05,819/-. He submits that Presiding Officer has not considered the evidence on record and held that the Respondents / Claimants are entitled for additional compensation in respect of the acquired land. Thus, the Appellant has good chance of success in the present matter.

3. Learned Senior Counsel for Appellant submits that in the interest of justice stay the operation and implementation of the impugned award passed by the Presiding Officer, Nagpur, during the pendency of the present First Appeal. He submits that if the stay is not granted and the entire amount is recovered by the Respondent by execution application, then nothing survives in the First Appeal.

4. On the other hand, the learned Senior Counsel for the Respondent No.1 vehemently opposed the application. He submits that in the present proceeding, the Appellant acquired

Respondent No.1's land admeasuring 306.60 Sq.mtrs situated at Ghatkopar. He submits that Presiding Officer, Nagpur after considering evidence on record rightly held that the Claimants are entitled for enhanced additional compensation of Rs.6,56,45,527/-. He submits that if the relief sought in the Interim Application is granted then, irreparable loss would be caused to the Respondent No.1, because they had already lost their land. Therefore, there is no question of entertaining the present Interim Application.

5. We heard both sides in length.

6. It is to be noted that in the present proceedings the Presiding Officer, Land Acquisition, Nagpur has enhanced the compensation to the tune of Rs.6,56,45,527/-. If entire amount is recovered by the Respondent/Claimant in execution application, then nothing will survive in the First Appeal. In any case, there is a money decree against the Appellant. They have to deposit the award amount along with interest and costs in the Registry. Hence the following order is passed:-

(a) The operation and implementation of the impugned award dated 11th July, 2019 passed by the Presiding Officer, Land

Acquisition, Rehabilitation and Resettlement Officer, Nagpur in Application No.17/KOK/MUM (SU)/2018 is stayed till hearing and final disposal of the First Appeal on condition that, the Appellant deposits the entire award amount with interest and cost if any in the Registry of this Court on or before 6th April, 2021.

(b) If the amount is deposited by the Appellant in time then the Registry is directed to invest the said amount in fixed deposit of any Nationalised Bank initially for period of one year and same to be continued till the disposal of the First Appeal.

(c) If the amount is deposited in the Registry within time, liberty granted to the Respondents / Claimants, if they so desire, to prefer appropriate application for withdrawal of the amount and that will be decided on its own merits after hearing of both parties.

(d) It is made clear that, if amount is not deposited within time as stated hereinabove, the Respondents / Claimants is entitled to execute the award according to law.

(e) Interim Application stands disposed of with no order as to costs.

[R.I. CHAGLA J.]

[K.K. TATED, J.]