

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

CIVIL APPLICATION NO.3672 OF 2023
IN
ARBITRATION APPEAL NO. 1 OF 2021

National Highways Authority Of India
Represented By Project Director A R Yadav Applicant

Versus

Nitinchandra Shriram Patil And Another Respondents

Mr. D.S. Manorkar, Advocate for the applicant.
Mr. Mukul S. Kulkarni, Advocate for respondent No. 1.
Mr. P.N. Kutti, AGP for State.

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[CORAM : NITIN B. SURYAWANSHI, J.]

DATE : 4th AUGUST, 2023

ORDER :

1. This application is filed by the applicant seeking stay to the execution of impugned judgment and order dated 06.02.2020, passed by learned Principal District Judge, Dhule, in Civil M.A. No. 169/2013, thereby granting enhanced compensation.

2. This Court granted stay to the impugned judgment and order subject to the applicant depositing amount of Rs. 2,47,50,106/-, for which attachment warrant was issued against the applicant by the Executing Court. The applicant has

deposited the amount and claimants are permitted to withdraw 50% of the amount, subject to furnishing solvent surety.

3. Heard the learned advocate for the applicant, learned advocate for respondent No. 1 and learned AGP for respondent No. 2. Perused the memo of application and the reply filed by respondent No. 1, so also the rejoinder.

4. Learned advocate for the applicant prays for making the stay absolute till final decision of the appeal. By pointing out the award of the District Court, he submits that, exorbitant amount is awarded to the claimant, to which he is not entitled. He further submits that the order relied upon by the learned advocate for the respondent/claimant is in respect of different villages and same cannot be relied upon to seek similar relief in the present matter.

5. Learned advocate for respondent No. 1/claimant submits that in view of order dated 13.01.2023, passed in arbitration appeal, stay is already refused to the applicant. This order was not brought to the notice of this Court at the time of passing the order on 02.05.2023.

6. This Court (Coram: Sharmila U. Deshmukh, J.) on 13.01.2023, passed order in arbitration appeal No. 1/2021, relevant observation is as follows;

"7. Learned counsel for the appellant seeks stay of the award, however, considering that the same pertains to a compensation payable for land acquisition, I am not inclined to grant any interim stay of the award. Respondent is put to notice that the payment of any compensation will be subject to the final outcome of the appeal".

7. Admittedly, this order is not mentioned in the present civil application and it was also not brought to the notice of this Court by the applicant while obtaining stay on 02.05.2023. In the light of above observation, civil application deserves to be dismissed and same is accordingly dismissed.

8. Respondent No. 1/claimant is permitted to withdraw the amount on furnishing an undertaking.

[NITIN B. SURYAWANSHI, J.]