

NON-REPORTABLE

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION
CIVIL APPEAL NOS. 4102-4103 OF 2020
(Arising from S.L.P.(Civil) Nos.14215-14216/2020)

Nayara Energy Limited

...Appellant

Versus

The State of Gujarat and others

...Respondents

J U D G M E N T

M.R. SHAH, J.

1. Leave granted.
2. Feeling aggrieved and dissatisfied with the impugned order dated 18.08.2020 passed by the High Court of Gujarat in Civil Application (For Stay) No. 1 of 2020 in First Appeal No. 1543 of 2020 and the subsequent order dated 30.09.2020 passed in Misc. Civil Application (for modification of order) No. 2 of 2020 in First Appeal No. 1543 of 2020, permitting the original claimants

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MEENAKSHI KOHLI
Date: 2020.12.18
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Reason:

to withdraw 50% of the 80% of the amount, as awarded by the

learned Reference Court, without furnishing any security, the appellant herein – the appellant/applicant before the High Court has preferred the present appeals.

3. Feeling aggrieved and dissatisfied with the judgment and award passed by the learned Reference Court enhancing the amount of compensation for the land acquired, the appellant herein has preferred the first appeal before the High Court being First Appeal No. 1543 of 2020. In the said appeal, the appellant filed Civil Application (for Stay) no. 1 of 2020 praying to stay the judgment and order passed by the learned Reference Court. By the impugned order dated 18.08.2020, the High Court has stayed the execution, implementation and operation of the judgment and award passed by the learned Reference Court, on condition that the appellant shall deposit 80% of the awarded amount along with proportionate cost and interest before the learned Reference Court. The High Court has further passed an order that upon deposit of the aforesaid amount, the learned Reference Court to deposit 50% out of the said deposited amount (80% of the amount awarded by the learned Reference Court), together with proportionate cost and interest, in the cumulative fixed deposit, in any nationalised bank, initially for a period of five years, in the

names of the original claimants, which shall be continued to be renewed from time to time, till the final disposal of the main first appeal. The High Court has further passed an order that balance 50% of the 80% of the awarded amount together with proportionate cost and interest is permitted to be withdrawn by the original claimants. The High Court has further passed an order that original claimants shall be entitled to withdraw 50% of the accrued principal interest on the fixed deposit. That thereafter the appellant herein filed an application to modify the aforesaid order pointing out that in case of relied upon judgment, relied upon by the learned Reference Court, an appeal has been preferred and there is an unconditional stay granted by the High Court – Coordinate Bench, and therefore, it was prayed to modify the aforesaid interim order. By order dated 30.09.2020, the learned Single Judge of the High Court has dismissed the said application. Hence, the present appeals have been preferred by the original applicant – acquiring body.

4. Shri P.S. Narasimha, learned Senior Advocate appearing on behalf of the appellant has stated at the Bar that instead of 80% of the awarded amount, as directed by the High Court by the first impugned interim order, the appellant is ready and willing to

deposit the entire 100% of the enhanced awarded amount, together with interest and cost granted by the Reference Court, as a condition for stay of the award. It is submitted that, however, the claimants may not be permitted to withdraw the amount without furnishing any security or solvency certificate to the satisfaction of the learned Reference Court or the Executing Court.

4.1 It is further submitted that if the claimants are permitted to withdraw the amount of compensation, as awarded by the learned Reference Court, without furnishing any security, in that case and ultimately if the appellant succeeds before the High Court, it will be very difficult for the appellant to recover any amount from the original claimants. It is submitted that therefore while permitting withdrawal, the High Court ought to have put some conditions for giving security for withdrawal, so that there may not be any difficulty for realising back the amount, in the event the first appeal of the appellant is allowed by the High Court.

5. Learned counsel appearing on behalf of the original claimants has submitted that the acquisition is of the year 1996 and after a period of approximately 17 years, the learned

Reference Court enhanced the amount of compensation. It is submitted that the original claimants are agriculturists and their lands have been acquired and that they are not in a position to furnish any security. It is submitted that the High Court has not committed any error in passing the impugned interim order and permitting the original claimants to withdraw 50% of the 80% of the enhanced amount of compensation awarded by the Reference Court.

6. Having heard learned counsel for the respective parties at length and the fact that the lands of the original claimants have been acquired in the year 1996 and the learned Reference Court has enhanced the amount of compensation after a period of approximately 17 years (by now 20 years), and the original claimants are not in a position to furnish any security, while permitting the original claimants to withdraw the amount of enhanced compensation awarded by the learned Reference Court, to strike the balance and to consider the interest of both the parties and recording the statement of Shri P.S. Narasimha, learned Senior Advocate appearing on behalf of the appellant that the appellant is ready and willing to deposit the entire enhanced amount of compensation awarded by the learned Reference

Court, together with interest and cost, we are of the opinion that if the original claimants are permitted to withdraw 25% of the enhanced amount of compensation, as awarded by the learned Reference Court, together with proportionate interest and cost, without furnishing any security and the balance 75% of the enhanced amount of compensation, together with proportionate cost and interest, as awarded by the learned Reference Court is permitted to be invested in a fixed deposit in any nationalised bank with cumulative interest, it will meet the end of justice and take care of the interest of both the parties.

7. In view of the above and for the reasons stated above, the impugned order passed by the High Court dated 18.08.2020 passed in Civil Application (for stay) No. 1 of 2020 in First Appeal No. 1543/2020 is modified as under:

i) the execution, operation and implementation of the judgment and award passed by the learned Reference Court, impugned before the High Court in First Appeal No. 1543 of 2020, is stayed on condition that the appellant shall deposit entire 100% of the awarded amount along with interest and cost before the learned Reference Court, within a period of four weeks from today;

ii) upon deposit of the aforesaid amount, the learned Reference Court is directed to deposit 75% of the said deposited amount together with proportionate cost and interest, in the cumulative fixed deposit, in any nationalised bank, initially for a period of five years, in the name of the Court, which shall be continued to be renewed from time to time, till the final disposal of the main first appeal. The fixed deposit receipt may be kept in the custody of the learned Reference Court;

iii) the balance 25% of the deposited amount, together with proportionate cost and interest is permitted to be withdrawn by the original claimants without furnishing any security, which shall be paid by the learned Reference Court, by way of account payee cheque, on proper identification and verification and the original claimants shall be informed by the learned Reference Court itself the amount which they are to be paid. The withdrawal of the aforesaid amount shall be subject to the ultimate outcome of the main first appeal.

8. The present appeals are allowed to the aforesaid extent. No costs.

.....J.
[ASHOK BHUSHAN]

.....J.
[R. SUBHASH REDDY]

NEW DELHI;
DECEMBER 18, 2020.

.....J.
[M.R. SHAH]