

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE SIDE JURISDICTION
CIVIL APPLICATION NO.2342 OF 2015
IN
FIRST APPEAL NO. 501 OF 2014

Shivputra Maruti Makanpure,
Since deceased, through Legal Heirs

a. Smt. Gujarbai Shivaputra Makanpure
and Others.

..Applicants

Vs.

State of Maharashtra and Others.

..Respondents

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Shri Niranjan P. Shimpi for the Applicants.

Shri A.R. Patil, AGP for Respondent No.1.

Dr. Ramdas P. Sabban for the Respondent Nos.2 to 5.

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CORAM : A.S. OKA &
REVATI MOHITE DERE, JJ
DATED : 24TH JULY 2015

P.C.

1. Heard the learned counsel appearing for the Applicants who are the Appellants and the learned counsel appearing for the Respondent Nos.2 to 5. The learned AGP represents the First Respondent. The learned counsel appearing for the Applicants invites our attention to the order dated 22nd August 2014 passed by this Court in the Civil Application No.1647 of 2014. In Paragraph 6 of the said order, liberty was granted to the Applicants to make an Application to this Court in the event the Applicants were in position to arrange for security to the extent of 50% of the amounts payable by the Applicants

under the impugned judgment and award.

2. We have perused the impugned judgment and award and in particular Clauses 3 and 4 of the operative part thereof. As far as the award for payment of costs is concerned, the same cannot be stayed. As far as the award in terms of Clause 3 is concerned, it is in respect of the interest. The learned counsel appearing for the Applicants on instructions states that the Applicants are willing to furnish security to the extent of 50% of the decretal amount. In view of this statement and in view of the observations made in Paragraph 5 of the order dated 22nd August 2014, we are inclined to stay the operation and execution of the Clause 3 of the impugned judgment and award subject to the Applicants furnishing adequate security for securing 50% of the decretal amount payable as of today subject to the satisfaction of the Reference Court.

3. Hence, we dispose of the Application by passing the following order:

ORDER :

- (a) There will be stay of execution and operation of the Clause 3 of the operative part of the impugned judgment and award subject to the condition of the Applicants furnishing adequate security to the extent of 50% of the decretal amount payable in terms of

the said Clause 3 as of today to the satisfaction of the Reference Court;

- (b) The Reference Court before accepting the security shall give an opportunity of being heard to all the parties to the Reference in which the impugned judgment and award has been made;
- (c) On failure of the Applicants to furnish adequate security to the satisfaction of the Reference Court within a period of four months from today, the stay shall stand vacated without further reference to the Court;
- (d) If the Applicants have produced Solvency Certificates with the Registry in this Application, the same be returned to the Advocate for the Applicants.

(REVATI MOHITE DERE, J)

(A.S. OKA, J)