

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION NO.80 OF 2015
IN
CIVIL REVISION APPLICATION NO.312 OF 2010

kantilal Champalal Kothari & Ors.)... Applicants
V/s.
Larsen & Toubro Limited & Anr.)... Respondents

Mr.P.S.Dani Sr.Advocate a/w Mr.Pramod Vora i/by M/s.Pramodkumar & Co. for applicants.

Mr.Ashutosh A.Kumbhakoni Sr.Advocate a/w Mr.Sunil Tilokchandani, Vikrem Trivedi, Bharat Kumar M.Joshi i/by M/s.Manilal Kher Ambalal & Co. for respondent no.1.

Ms.Aditi Chavan i/by Mr.Suneel Kumar Tyagi for respondent nos.2(a) to 2(d).

CORAM: K.R.SHRIRAM, J.

DATED : 25.2.2015.

P.C. :

1 This application is taken out by the applicants to withdraw sum of Rs.7,95,13,333/- deposited by the respondent no.1 in this court by way of interim compensation.

2 The suit originally was filed by the present applicants. Though they lost in the trial court, in the appeal they succeeded in getting a decree of eviction against the respondents. The respondent no.1 has filed Civil Revision Application No.312 of 2010. This court

granted stay against eviction but directed the respondent no.1 to this Civil Application to deposit sum of Rs.14,00,000/- per month and the same has been deposited by the respondents. Both the parties carried the matter to the Apex Court. It was the case of the applicants herein to increase the compensation, whereas it was the case of the respondents to this application, for reduction of that amount. The Apex Court by an order dated 8.12.2014 disposed of the appeal filed by the applicants herein whereby the Apex Court directed the respondent no.1 to pay to the applicants a sum of Rs.20,00,000/- towards use and occupation charges from December-2014.

3 By this date, the respondent no.1 had already deposited a sum of Rs.7,95,13,333/-. The Apex court granted the applicants liberty to move an application for withdrawing the amount which is already deposited by the respondents pursuant to the interim order passed by this court. The order of the Apex Court in page-3 reads as under :-

“..... The appellants are at liberty to move an application for withdrawing the amount which is already deposited by the respondents pursuant to the interim order passed by the High Court.”

4 Pursuant to this order, the present Civil Application has been filed for withdrawal of the amount of Rs.7,95,13,333/- deposited by the respondent no.1. The counsel for the respondent no.1 stated that this court should not permit the applicants to

withdraw the amount because the respondent no.1 admittedly owns 7% in the property. He also pointed out in his affidavit in reply that about 1/2% undivided share in the suit property is owned by one PLS Technologies Private Limited. He also submitted that if ultimately the respondent no.1 succeeds in this Civil Revision Application, it will be difficult to recover the amounts paid from the applicants.

At this stage, the counsel for the applicants states that if ultimately respondent no.1 succeeds in the Civil Revision Application, the applicants will bring back the money of Rs.7,95,13,333/- into the court together with interest at such rate that the court will fix. Mr.Dani, counsel for the applicants also states that property is worth about Rs.300 crores.

5 The Apex Court while disposing the civil appeal filed by the applicants has, considering the facts and circumstances of the case, directed the respondent no.1 to pay Rs.20,00,000/- directly to the applicants. The respondent no.1 has also paid the amount for December-2014, January-2015 and February-2015. The applicants have also undertaken to bring the money back together with interest at the rate that would be fixed by this court. Certainly the property as drescribed, taking into account the present conditions in Mumbai, will be worth far in excess of the amounts which the applicants are seeking to withdraw. Therefore, the respondent no.1 certainly has enough security to recover the amount and in any event, if they succeeded in the Civil Revision Application, the compensation payable subsequently can be adjusted against the amounts already

paid.

6 In the circumstances, since the Apex Court has also directed the respondent no.1 to pay directly Rs.20,00,000/-, I am inclined to allow this application but with a difference. The applicants are permitted to withdraw upto 90% of Rs.7,95,13,333 together with accumulated interest thereon in the same proportion as mentioned in the percentage column of paragraph-26 of the application.

7 The undertaking of the applicants to bring back the money with interest as directed by the court given through the counsel for the applicants is accepted and so ordered. The undertaking of the counsel to tender a formal undertaking to the registry in usual format before the amount is released to the applicants is accepted.

8 Civil Application accordingly stands disposed. Civil Revision Application be added to the list of "Supreme Court expedited Civil Revision Applications".

(K.R.SHRIRAM, J.)