

FARAD CONTINUATION SHEET
IN THE HIGH COURT OF JUDICATURE AT BOMBAY.
CIVIL APPELLATE SIDE JURISDICTION.
CIVIL APPLICATION NO.1438 OF 2015
IN
FIRST APPEAL (ST) NO.3722 OF 2015

Office Notes, Office Memoranda of Coram, Appearances, court's orders or directions and Registrar's orders	Court's or Judge's orders
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Mrs. Varsha Chavan for the Applicant

CORAM : K. K. TATED, J.
DATE : APRIL 10, 2015

P.C.:

1. Mentioned. Not on board. At the request of learned counsel for the Applicant, the matter is taken on board for urgent orders.

2. This Application is for stay of the operation and implementation of the impugned judgment and award dated 21/07/2014 passed by the MACT Pune in MACP No.1176/2009 placing liability of 40% of Rs.20,64,000/- with 7.5% p.a. interest on the Insurance Company/ Applicant.

3. The learned counsel for the Applicant submits that the Respondent-Claimant filed Execution Application wherein the Executing Court has directed the Bailiff to execute the award. Pursuant to the said order, the Bailiff visited the Applicant's office on 09/04/2015. Hence, there is urgency.

4. The learned counsel for the Applicant submits that the Applicants are ready and willing to deposit their share of liability in the Tribunal within 4 weeks from today. Statement is accepted. The learned counsel for the Applicant submits that the amount of Rs.25000/- deposited in this court at the time of filing of the present appeal be transferred to the Tribunal.

5. Considering the submissions made by the learned counsel for the Applicant and the averments made in the Application, I am satisfied that the Applicant has made out a case for allowing the present Civil Application.

6. At the same time, since this order is being passed without issuing any notice to the Respondent-Claimant, liberty granted to the Respondent - claimant to file an appropriate Application for withdrawal of the amount, if they so desire, which will be decided on its own merits. At present, the Respondent-Claimant can withdraw 20% of the amount if deposited by Applicant without furnishing any security, subject to outcome of the appeal.

7. Hence, the following order:

a. The operation and implementation of the

impugned judgment and award dated 21/07/2014 passed by the MACT Pune in MACP No.1176/2009 is stayed in favour of the Applicant only on condition that the Applicant to deposit their share of compensation in the Tribunal within 4 weeks from today, failing which the Civil Application shall stand dismissed without further reference to the court.

b. If the amount is not deposited within stipulated time as stated hereinabove the Respondent-Claimant is entitled to execute the award as per the law.

c. If the amount is deposited within stipulated time as stated hereinabove, the Respondent-Claimant Mahesh Kalappa Kawathe is entitled to withdraw 20% amount without furnishing any security, subject to outcome of the First Appeal.

d. The Tribunal is directed to invest the remaining amount in a fixed deposit account of any Nationalized bank, initially for a period of one year which will be renewed from time to time till hearing and final disposal of the appeal.

e. Liberty granted to the Respondent - claimant to file an appropriate Application for withdrawal of the amount, if they so desire, which will be decided on its own merits.

f. The amount of Rs.25000/- deposited by Applicant in this court at the time of filing of the present appeal be transferred to the Tribunal.

g. Civil Application stands disposed off accordingly.

JUDGE