

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

CIVIL APPLICATION NO.2876 OF 2015

IN

WRIT PETITION NO.10970 OF 2014

M/s. Amar Pharma & Equipments and others .. Applicants

Versus

The Estate Officer,

of Life Insurance Corporation of India and others .. Respondents

**Mr. Chaitanya Mehta a/w Ms. Trupti Shetty a/w Mr. Umang Mehta
i/by M/s. Dhruve Liladhar & Co., for the Applicants.**

**Mr. S. U. Kamdar, Senior Advocate a/w Mr. Milind V. More, for the
Respondents.**

CORAM : R.M. SAVANT, J.

DATE : 1st DECEMBER, 2015

PC.

1. The above Civil Application has been filed seeking review of the order dated 05.08.2015 passed by this Court (R. M. Savant, J), by which order the Applicants were directed to deposit an amount of Rs.1,07,59,021/- which was 50% of the damages as mentioned in the impugned order passed by the Estate Officer pending the above Petition. It is not necessary to go into the other details as regards Valuation Report submitted etc. in the context of the fact that review is sought of the order dated 05.08.2015. Against the said order dated 05.08.2015 the Applicants

had filed an SLP filed in the Apex Court. The said SLP came to be withdrawn by the Applicants with leave to file documents which they seek to rely upon before this Court. It is pursuant to the said leave granted that the above Civil Application has been filed for review. The Civil Application is filed seeking review of the order, in so far as it directs the deposit of Rs.1,07,59,021/- in this Court which as indicated above is 50% of the amount which has been calculated as damages by the Estate Officer. The review is sought on the ground that the Applicants have now laid their hands on a Leave and Licence Agreement entered into between Respondent Nos.2 and 3 herein and the Life Insurance Corporation of India ("LIC" for short). This is after the premises have been taken possession of by the LIC and have now been given on licence basis to the Respondent Nos.2 and 3. The said Leave and Licence Agreement is dated 26.08.2010 and in respect of the premises admeasuring 1327 sq.ft. The review is therefore sought on the basis that the premises in question which were in occupation of the Petitioners were admeasuring 1327 sq.ft. and that the damages have therefore wrongly been calculated on the basis of the premises being 2500 sq.ft.

2. In so far as the said ground is concerned, it is required to be noted that the matter was proceeded before the Estate Officer as also the Appellate Court on the basis that the premises are admeasuring 2500 sq.ft.

Before this Court also, there was no issue raised that the premises are admeasuring less than 2500 sq.ft. and the issue raised was only as regards the amount to be deposited in this Court pending the Petition. Hence, in the above Civil Application for the first time a dispute is sought to be raised as regards the extent of the premises which obviously cannot be entertained. It is further required to be noted that the Licence Agreement is entered into with the Respondent Nos.2 and 3 who are the subsequent occupants. The Leave and Licence granted according to the Learned Senior Counsel appearing for the LIC is only for part of the premises i.e. admeasuring 1327 sq.ft. In my view, therefore, even the production of the said Leave and Licence Agreement dated 26.08.2010 does not tilt the matter in any manner in so far as the deposit of the said amount of Rs.1,07,59,021/- is concerned. No case for review in any of the eventualities mentioned in Order 47 of the Civil Procedure Code is made out. The Civil Application is accordingly rejected.

3. At the request of the Learned Counsel for the Applicants, the time to deposit the amount is further extended by a period of four weeks from date.

[R.M. SAVANT, J]