

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

CIVIL APPLICATION (CAF) NO. 349 OF 2015

IN

FIRST APPEAL NO. 374 OF 2014

(PRAKASH HARINARAYAN MANTRI..VS..SUMITRA GAJANAN WAGH & OTH.)

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

CORAM : Z.A.HAQ, J.

DATED : MARCH 04, 2015.

Heard Mr. K.R. Lule, learned advocate for the appellant and Mr. A.B.Moon, learned advocate for respondent Nos. 1 to 4.

2. The application is filed by the applicant seeking modification of the order passed by this Court on 16th January, 2015 insofar as the rejection of prayer for interim order is concerned.

3. Mr. Lule, learned advocate for the appellant submits that this Court by order dated 18th December, 2014 has recorded submissions made by him that the amount of compensation could not be deposited by the appellant as per the order passed by the Court on 19th December, 2013. However, this Court granted interim order and stayed the execution of the impugned award. It is submitted that this Court has not considered the order passed on 18th December, 2014 by which the interim order was granted in favour of the appellant and therefore, the rejection of prayer for interim orders is erroneous and the interim order granted on 18th December, 2014 is required to be continued.

4. Mr. A.B.Moon, learned advocate for respondent Nos. 1 to 4 submits that the order passed on 18th December, 2014 was considered and after hearing the parties this Court rejected the prayer for interim orders on 16th January, 2015.

5. The appeal is filed by the owner of the vehicle which was involved in the accident. The appellant had not appeared before the Tribunal. The submission on behalf of the appellant is that he was not served with the summons of the proceedings. It is undisputed that the summons of the proceedings was served on Shri Deepak Mantri-nephew of the appellant. In the memorandum of appeal it is nowhere stated that Shri Deepak Mantri was not residing with the appellant at the relevant time.

6. This Court by order dated 19th December, 2013 had granted four weeks' time to the appellant to deposit the amount as per the impugned award and recorded that if the amount is deposited within stipulated time there shall be interim stay to the execution of the impugned award. The appellant has not deposited the amount as per order dated 19th December, 2013. Today, again I inquired with the learned advocate appearing for the appellant as to whether the appellant is willing to deposit the amount as per the impugned award, however, he has shown unwillingness.

Considering the facts on record, I am not convinced that the appellant has made out a *prima-facie* case for grant of interim order. The order passed on 16th January, 2015 does not require any modification.

The Civil Application is **dismissed**. No costs.

JUDGE