

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
CIVIL APPLICATION NO. 23 of 2015
IN
LETTERS PATENT APPEAL NO.141 OF 1996
IN
WRIT PETITION NO.2733 OF 1996

Mackinnon Employees Union. .. Applicant

In the matter between :

Mackinnon Mackenzie & Co. Ltd. .. Appellant

Vs

1. Shri G.S. Baj,
Member, Industrial Court, and

2. Mackinnon Employees Union. .. Respondents

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CORAM : A.S. OKA &
SMT. ANUJA PRABHUDESSAI, JJ

DATED : 18TH NOVEMBER 2016

PC.

1. Heard learned counsel appearing for the Applicant (the first Respondent in the Letters Patent Appeal) and the learned counsel appearing for the Appellant in the Letters Patent Appeal.

2. The Letters Patent Appeal was directed against the judgment and award dated 22nd March 1996 passed by the Industrial Court on 8th March 1996. On the basis of the interim orders passed in the Letters Patent Appeal, a total sum of Rs.32 lakhs has been deposited

by the Appellant in the Letters Patent Appeal. The Letters Patent Appeal has been dismissed by the judgment and order dated 5th May 2016. Civil Appeal preferred by the Appellant in the Letters Patent Appeal has been dismissed by the Apex Court by the judgment and order dated 25th February 2015. While dismissing the Appeal, a direction was issued by the Apex Court to the Appellant in the Letters Patent Appeal to pay the amount as per the judgment and award of the Industrial Court within a period of six weeks from the date of receipt of the said judgment. It is not in dispute that even a Review Petition filed by the Appellant in the Letters Patent Appeal seeking review of the decision of the Apex Court has been dismissed.

3. Therefore, the prayer in this Civil Application by the Respondent in the Letters Patent Appeal in whose favour the impugned award was made by the Industrial Court is for seeking permission to withdraw a sum of Rs.32 lakhs with interest accrued thereon as the said amount was deposited by the Appellant in the Letters Patent Appeal towards the amount payable under the impugned award. The opposition of the learned counsel appearing for the Appellant in the Letters Patent Appeal to the prayer made in this Application is that the Appellant has already filed a Curative Petition. However, he accepts that there is no ad-interim or interim relief granted by the Apex Court in the Curative Petition.

4. Therefore, as of today, there is no impediment in the way of the Applicant in this Application withdrawing the amount deposited in this Court together with interest accrued thereon. Obviously, withdrawal of the amount which may be made by the Applicant will be for the benefit of the concerned workmen.

5. Only because a statement is made by the learned counsel appearing for the Appellant in the Letters Patent Appeal that the Curative Petition is pending, that we are not permitting the Applicant to immediately withdraw the amount to enable the Appellant to move the Apex Court.

6. Accordingly, we pass the following orders:

ORDER :

The Application is allowed in terms of prayer clause (a).
However, this order shall be implemented after the expiry of the period of three months from today.

(SMT. ANUJA PRABHUDESSAI, J)

(A.S. OKA, J)