

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

Amk

CIVIL APPLICATION NO. 4310 OF 2016
IN
FIRST APPEAL (STAMP) NO. 16045 OF 2014

Shri Mataruram @ Matroo M. Kanojia .. Applicant

In the matter between

The New India Assurance Co. Ltd. .. Appellant

Vs.

Shri Mararuram M.Kanojia & Anr. .. Respondents

Mr. V. M. Parkar for the Applicant/Respondents.

CORAM : DR. SHALINI PHANSALKAR-JOSHI, J.

DATE : 1st OCTOBER, 2016.

P. C. :

1. This application is preferred by the original claimant seeking vacating of the ad interim order dated 21.07.2014 passed by this Court in Civil Application No. 2197 of 2014. It is submitted that the appellant herein has not complied with the said order, which was towards the directions of the decretal amount within the period of eight weeks.

2. However, learned counsel for the appellant has filed on record the letter stating that the cheque of the amount of Rs.1,27,586/- dated 08.08.2014 drawn on Axis Bank Ltd. is already deposited on 25.08.2014 with the Commissioner of Workmen Compensation, Bandra, Mumbai. In view thereof, there is no question of vacating the stay granted by this Court.

3. Second ground, on which the vacation of the stay is sought, the appellant has failed to comply with the order dated 08.06.2016. By the said order, the notice was directed to be issued to respondent No.2 returnable on 07.07.2016. In addition of notice through Court, learned counsel for the appellant was directed to serve private notice by RPAD or by courier or by hand delivery and file the affidavit of service before the returnable date. It is submitted that, no affidavit of service is filed on record. The office note reveals that the notice issued through Court could not be served due to insufficient address. In view thereof, learned counsel for the appellant seeks time of two weeks to file affidavit of service and will pray for publication of service on respondent No.2.

4. In view thereof, this application stands disposed of and the learned counsel for the appellant is granted a period of two weeks for carrying out the necessary service.

5. The appeal be kept on 17.10.2016.

[DR. SHALINI PHANSALKAR-JOSHI, J.]