

Sequeira

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

WRIT PETITION NO. 7182 OF 2015

MSTC Limited.

.. Petitioner

Vs

The State Trading Corporation of India
Ltd. & ors.

.. Respondents

Mr.Ashwin Shete a/w Ketki Gadkari i/b M/s.Jayakar & Partners, for the Petitioner.

Mr.D.G.Dhanure a/w Niranjana Pachapute, for Respondent No.1.

Ms.Nupur Awasthi i/b M/s Consulta Juris, for Respondent No.2.

Mr.Manvendra Y. Naidu, for Respondent No.4.

Mr.A.K.Basu, Director Finance, Mr.Anand Angane, Deputy Manager and Mr.Siddarth Krishnan, Junior Manager, officers of the Petitioner.
Mr.Praful Malde-Chief Marketing Manager of Respondent No.1, STC, Mumbai branch - M. Junction Services -Ltd.

***CORAM : N.M.Jamdar, J.
Tuesday, 18 October 2016.***

P.C. :

Heard learned counsel for the parties. The matter was heard on 22 September 2016 wherein parties had sought adjournment to exchange proposals and they have advanced suggestions accordingly.

2. By the impugned order dated 21 June 2014 the learned Civil Judge Senior Division Panel, has rejected the application taken out

by the Defendant No.1 for interim stay of HR Coils which is subject matter of the suit. After arguing the matter for some time, learned counsel for the parties have agreed that if the HR Coils are kept as they are in the condition as of today its value will deteriorate and neither of the parties will benefit from this position. The learned counsel for the parties therefore agree that the HR Coils could be sold and the value be converted in money and the amount be deposited in a fixed deposit so that the suit claim can be adjudicated appropriately.

3. The learned counsel for the parties on instructions from their respective clients state that the auction can be held by M.Junction Services. Ltd. of the said HR Coils and the amount recovered from the Coils can be deposited in the trial Court and the trial Court will invest the said amount in fixed deposit of any Nationalised bank, subject to further orders to be passed in the suit. As regards the expenses of the auction the learned counsel for the parties agree that the amount will be initially borne at the rate of 50 : 50 by both, the Defendant No.1 and the Plaintiff and at the time of final adjudication in the suit, the learned Civil Judge, Panvel will fix the liability on either of these parties the amount of expenses incurred in the auction.

4. It is clarified that this interim order is to preserve the *lis* between the parties and to ensure that none of the parties are prejudiced by loss of value in the subject matter of the suit and it is not reflection on the merits of rival contentions of all the parties concerned in the suit and their contentions on merits will be

considered by the learned Civil Judge Panvel.

5. The learned Civil Judge will accordingly pass suitable orders for fixing the date of the auction as above for issuing necessary ancillary directions.

6. The learned counsel for the parties state that they will appear before the learned Civil Judge, on 26 October 2016 where the learned Civil Judge Panvel, will issue appropriate direction in furtherance of what is agreed as above. Writ Petition is accordingly disposed of in above terms.

(N.M.Jamdar, J.)