

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

***WRIT PETITION NO. 10886 OF 2015
ALONG WITH
CIVIL APPLICATION (ST) NO. 27520 OF 2016
(Not on board)***

Stephen Bernard Construction Co.
through Sabio Bernard ... Petitioner

v/s

Jolly Constructions & anr. ... Respondents

Mr.E.A.Sasi for the petitioner/applicant.

Mr.Pradip Kadam for Respondent No.1.

Coram: N.M. Jamdar, J.

Dated: 3 October 2016

ORAL ORDER:

On 26 September 2016, following order was passed in the writ petition pursuant to which the Civil Application (St.) No.27520 of 2016 is filed.

'P.C. :-

Heard the learned Counsel for the parties. The matter is moved on a praecipe. The learned Counsel for the Petitioner states that a Demand Draft of amount of Rs.28,50,000/- is ready. The learned Counsel for

Respondent No.1 on instructions states that though it is correct that in the consent terms the power of this Court to grant extension is not foreclosed, the Petitioner be put to certain terms as it is seeking an extension.

2. The learned Counsel for the Petitioner states that a Civil Application will be filed and the amount of Rs.28,50,000/- will be deposited in this Court before the next date.

3. Considering the facts and circumstances, I am of the opinion that an extension of 2 to 3 weeks needs to be granted to the Petitioner, subject to a condition that the Petitioner will pay an additional amount i.e. of 18% on Rs.28,50,000/- from 29 June 2016 till date. To enable the Petitioner to file a Civil application and to deposit the amount, stand over to 3 October 2016 for 'directions'.

Copy of the Civil Application be served in advance to the Respondent No.1. A deposit shall be made with an intimation to Respondent No.1.

The civil application is not on board. By consent of parties taken up on board.

2 The amount of Rs.28,50,000/- has already been deposited. Learned counsel for the Applicant, on instructions, makes a statement that shortfall of interest as specified in paragraph 3 of the order dated 26 September 2016 will be deposited within a period of one week from today. This statement made on instructions, is accepted. Learned counsel for the Respondents seeks imposition of cost. Request is justified.

3 Considering the fact that the amount is deposited and undertaking for interest is also accepted, the civil application is allowed in terms of prayer clauses (a) and (b), subject to deposit of the additional interest as directed, within a period of one week from today and payment of Rs.15,000/- to the Respondents by way of cost. Cost be paid directly to the Respondents. Learned counsel for the Applicant, on instructions, states that no further extension will be sought. It is on this express assurance that the civil application is granted as above.

4 The written statement be filed within a period of two weeks from the day of depositing of the cost and the interest as above. Cost shall be paid within one week. In case the written statement is not filed within the stipulated time, the impugned order shall stand revived.

(N. M. Jamdar, J.)