

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

CIVIL APPLICATION NO. 13743 OF 2017
IN FA/2755/2010

M/S NATIONAL INSURANCE CO LTD
VERSUS
MADHAVI NARAYAN JOSHI AND ANOTHER

...
Advocate for Applicant : Mr. V. N. Upadhye.
Advocate for Respondent No.2 : Mr. P. V. Tapse (Absent).
...

CORAM : K.K. SONAWANE, J.

DATED : 15TH NOVEMBER, 2017.

Order :-

Heard learned counsel for applicant. Despite service of notice, none appears for respondent No.2. The learned counsel for applicant express inability to serve the notice to respondent No.1 for want of his correct forwarding address.

2. Perused the application and relevant documents. Admittedly, this Court under Order dated 8th July, 2011, dismissed the Civil Application 5185 of 2003 moved for grant of stay to the execution and implementation of the impugned Award passed by the Tribunal. Considering the attending circumstances and the nature of subject matter, I do not find any impediment to allow the application for restoration of Civil Application No. 5185 of 2003 by setting aside the Order passed by this Court dated 8th July, 2010, after condoning the delay caused for filing the present application. Accordingly, civil application stands disposed of in terms of prayer clause 'A'.

3. In regard to the prayer clause 'B' for grant of stay after restoration of Civil Application No. 5185 of 2003, I find it justifiable to impose the fetter of depositing the decretal amount by the applicant

awarded by the Tribunal. It would sub-serve the purpose. Accordingly, the stay to the execution and implementation of the Award passed by Tribunal stayed subject to condition that the appellant shall deposit the entire decretal amount alongwith interest accrued thereon in this Court within four weeks, failure to which, the stay granted by this Court stands vacated automatically without further reference to this Court.

4. The record adumbrates that record and proceeding has already received. The matter is kept unready for want of print. The appeal is pending since year 2003. Therefore, the formalities of print/paper-book is hereby dispensed with. The appeal is already dismissed against respondent No.1. In view of delay since year 2003, issue notice to respondent No.2. In addition to regular mode of service, appellant shall serve the notice for hearing of appeal to respondent No.2 privately by fastest mode as may be permissible in law and file affidavit of service of notice with tangible proof to that effect on record by the returnable date. List the matter in due course.

[K. K. SONAWANE]
JUDGE

rrd.