

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION NO. 794 OF 2017
IN
CIVIL APPLICATION NO. 5659 OF 2007
IN
FIRST APPEAL (STAMP) NO. 24871 OF 2007
(R.C. NO. 629 OF 2017)

The New India Assurance Co. Ltd. .. Applicant
vs.
Tukaram Malhari Pansare & Ors. .. Respondents

Mr. S. M. Dange for Applicant / Appellant.
Ms A. Khare i/b. Mr. A. M. Gokhale for Respondent Nos. 1 and 2.

CORAM : M. S. SONAK, J.
DATE : 21 MARCH 2017

P.C :

1] For the reasons set out in the Civil Application, the order dated 17 January 2017 dismissing the Civil Application and consequently the First Appeal is recalled. The Civil Application and the First Appeal is restored.

2] However, it is clarified that the restoration of the Civil Application and the First Appeal shall not be construed as restoration of ad interim orders that were in operation, when the Civil Application and First Appeal was pending. The issue of grant of interim orders will be considered independently.

3] Taking into consideration, the circumstance that the First Appeal is of the year 2001, it is only appropriate that the applicant pays costs to the claimants / respondents, who, on account of the interim order obtained by the applicant, have been deprived of the compensation awarded in their favour. The applicant obtained an interim order from this court but, were not diligent in taking steps to effect service upon all the respondents. As a result, the interim order continued but, the respondents / claimants were deprived opportunity of pointing out to this Court that the interim order need not be confirmed or in any case, for making some orders with regard to withdrawal of compensation.

4] This Civil Application is therefore allowed, however, subject to payment of costs of Rs.10,000/- (Rupees Ten Thousand). The costs to be deposited in this court within a period of two weeks from today. In case the costs are not deposited, this application shall be deemed to have been dismissed. Upon deposit, the respondents/ claimants shall be entitled to withdraw the amount of costs unconditionally.

5] Civil Application is disposed of accordingly.

(M. S. SONAK, J.)