

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 2894 OF 2017

Sadanand A. Shetty .. Petitioner
vs.
Mehboob A. Essop and ors. .. Respondents

Mr. G.S. Godbole i/b Mohan D. Naik for the Petitioner.
Mr. Kunal Bhanage, Mr. Chirag Balsara and Mr. Aditya Deolekar i/b
Diamondwala & Co. for Respondent Nos.1 to 9.

CORAM : M. S. SONAK, J.
DATE : 12 OCTOBER 2017.

P.C. :-

1] After this matter was heard for some time, learned counsel for the parties submitted that this petition may be disposed of with the following agreed order.

(i) The petitioner shall, within a period of eight weeks from today, deposit the entire amount of interim compensation in terms of impugned order dated 27th January 2017 in the Appeal Court. This means that the petitioner shall deposit the compensation at the rate of Rs.2 lakhs per month with effect from 2nd April 2016 till 2nd November 2017;

(ii) If the aforesaid amount is indeed deposited by the petitioner within a period of eight weeks from today, then, the impugned order dated 27th January 2017, to the extent, it

determines compensation at the rate of Rs.2 lakhs per month, shall stand set aside;

(iii) In the meanwhile, i.e., within the period of eight weeks from today itself, both parties, are at liberty to file affidavits as well as documents, i.e., Valuation Report, Leave and Licence Agreement etc., which will assist the Appeal Court in redetermining the amount of reasonable compensation;

(iv) If the petitioner complies with clause (i) of this order and indeed deposits the interim compensation of the impugned order dated 27th January 2017 within a period of eight weeks from today, then, the Appeal Court, shall redetermine the amount of reasonable compensation on the basis of affidavits and additional material which may be placed on record by the parties. Such exercise is to be completed as expeditiously as possible and in any case within a period of eight weeks from the date of deposit in terms of clause (i) of this order;

(v) The amount which the petitioner may have deposited shall abide by redetermination by the Appeal Court. This means that if the amount of reasonable compensation is reduced, the petitioner, will be entitled to adjustment. Similarly, if the amount of reasonable compensation is enhanced, then the petitioner will be liable to pay the differential amount.

2] It is made clear that this Court has not examined the merits of the matter and therefore, if, the petitioner indeed deposits the interim compensation amount within eight weeks as aforesaid, the Appeal Court, to redetermine the issue of reasonable compensation, uninfluenced by the impugned order dated 27th January 2017, in accordance with law and on its own merits.

3] The petitioner to file the usual undertaking before the Appeal Court within a period of four weeks from today, after furnish of copy to the respondents.

4] In case of default in making deposit as aforesaid, this petition as recorded earlier shall be deemed to have been dismissed.

5] This petition is disposed of in the aforesaid terms.

6] All concerned to act upon on the basis of an authenticated copy of this order.

(M. S. SONAK, J.)