

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION NO. 2906 OF 2015
IN
FIRST APPEAL (STAMP) NO. 20591 OF 2015
WITH
CIVIL APPLICATION NO. 2907 OF 2015
IN
FIRST APPEAL (STAMP) NO. 20591 OF 2015

National Insurance Co. Ltd. .. Applicant/Appellant
vs.
Mr. Dilip Kakubhai Sethia
@ Bhanushali & Anr. .. Respondents

None for Applicant / Appellant.
None for Respondents.

CORAM : M. S. SONAK, J.
DATE : 09 MARCH 2017

P.C :

1] On 4 January 2017, this court has made the following order :

"1] Not on board. Upon production, taken on board.

2] By the order dated 4 September 2015, the execution of the award was stayed, subject to the appellant/applicant depositing the entire amount awarded alongwith interest within six weeks before the Motor Accident Claims Tribunal, Kalyan (MACT). The period of six weeks expired some time in October 2015.

3] From October 2015, till date it appears that the appellant, which is the National Insurance Company Ltd, did nothing in the matter. Only after the execution warrant levied, it is submitted that today a cheque has been issued to the Bailiff. On this basis, a preciepe is moved and interim relief is sought to restrain disbursement of said amount.

4] There is absolutely no case made out to restrain the disbursement of the amount, particularly since the order

dated 4 September 2015 was a self operative order. The interim order was granted conditionally. The condition has been breached by the appellant. The explanation in the preceipe, hardly inspires any confidence. From October 2015, the appellant did not even bother to file any civil application seeking any extension of time.

5] Accordingly, the preciepe is dismissed. The matter to come up in the regular course. If ultimately, the appellant succeeds, they can always apply for restitution."

2] Thereafter, the noting indicates that the civil application seeking condonation of delay has been dismissed against respondent no. 1 and abated as against respondent no. 2.

3] On 3 March 2017, the matter was mentioned and this court made the following order :

"1] Mr. Bharat Punekar, learned counsel mentions the matter on behalf of learned counsel appearing for the applicant-Insurance Company and seeks adjournment. Considering what is recorded in the order dated 4 January 2017, there is really no case made out to seek any adjournment. This is because on the basis of pendency of this matter, it is possible that the claimants are being deprived of compensation which is awarded to them by the impugned award.

2] However, as a last chance, place the matter on 9 March 2017 on supplementary board (High on Board), subject to payment of costs of Rs.5,000/-. The amount of costs to be deposited on or before the next date."

4] As per the Registry's noting, neither have the costs been paid nor have any further steps been taken. Today, when the matter is called out, neither any representative of the applicant / appellant nor

his Advocate are present.

5] In the aforesaid circumstances, the civil application and consequently the appeal and civil application for stay is dismissed with further costs of Rs.5,000/- (Rupees Five Thousand). The costs referred to in the order dated 3 March 2017 as well as in this order are to be deposited by the applicant / appellant before the concerned MACT within a period of four weeks from today.

6] The Registry to forward a copy of this order to the concerned MACT within a period of two weeks from today.

7] All concerned to act on basis of authenticated copy of this order.

(M. S. SONAK, J.)

Chandka