

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

**WRIT PETITION NO. 4116 OF 2017 WITH
CIVIL APPLICATION NO. 4646 OF 2018 IN
WRIT PETITION NO. 4116 OF 2017**

**THE MAHARASHTRA STATE ELECTRICITY TRANSMISSION
COMPANY LIMITED THROUGH ITS EXECUTIVE
VERSUS
CHAINSING SWARUPCHAND JONWAL**

...
Advocate for the Petitioner : Shri S. M. Godsay
Advocate for Respondent : Shri A. R. Magar
...

**CORAM : RAVINDRA V. GHUGE, J.
DATED : 1st AUGUST, 2018.**
...

PER COURT :

1. The petitioner is aggrieved by the judgment dated 26/09/2016 delivered by the learned Ad-hoc District Judge-3 Aurangabad, by which, MARJI No. 67/2013 has been allowed and the respondent- original applicant has been granted enhancement in compensation to the extent of Rs. 2,00,000/- (Rs. Two Lakh only) with interest @ 9 % per annum.
2. I have considered the submissions of the learned Advocates for the respective sides.
3. Under the orders of this Court, the amount of Rs. 3,27,332/-(Rs,Three Lakh Twenty Seven Thousand Three

Hundred and Thirty Two only) has been deposited in this Court by Demand Draft dated 03/08/2017.

4. Despite the strenuous submissions of the learned Advocate for the respondent, I find that the petitioner failed to participate in the proceedings before the Trial Court. Neither was the applicant cross-examined, nor did the petitioner lead oral and documentary evidence. Consequentially, the application has been practically allowed ex-parte.

5. It is not disputed that the applicant has been paid compensation as per the assessment of the petitioner after deducting the statutory components, which is Rs. 97,000/- (Rs. Ninety Seven Thousand only), before he approached the Trial Court in 2013.

6. It cannot be ignored that the respondent- applicant will suffer rigours of litigation due to the laxity on the part of the petitioner in relation to the proceeding before the Trial Court. His rigours can be softened by granting some costs to him and by applying a time frame for deciding the proceeding. Considering that the impugned judgment is practically ex-parte, it would be in the interest of justice that the application of the respondent is decided after considering the merits of the

rival contentions of the litigating sides.

7. In view of the above, this petition is partly allowed. The impugned judgment dated 26/09/2016 is quashed and set aside.

8. MARJI No. 67/2013 is restored to the file of the learned Adhoc District Judge-3, Aurangabad.

9. The litigating sides would appear before the Trial Court on 20/08/2018. Formal notices need not be issued.

10. The respondent is granted liberty to withdraw an amount of Rs. 10,000/- from the amount deposited by the petitioner in this Court towards costs and that amount would not be set off against any amount of compensation, if so granted by the Trial Court.

11. The petitioner shall file its written statement on 20/08/2018 and shall not seek an adjournment.

12. The litigating sides would co-operate with the Trial Court and would not seek unnecessary adjournments.

13. The Trial Court shall decide the said proceeding as expeditiously as possible and in any case on/or before 31/03/2019.

14. The amount deposited by the petitioner in this Court,

excluding amount of Rs. 10,000/- to be withdrawn by the respondent, shall be invested in Fixed Deposit in any Nationalized Bank initially for a period upto 30/04/2019.

16. Further investment would be subject to the result of the litigation between the parties.

17. Pending Civil Application does not survive and is hence disposed off.

(RAVINDRA V. GHUGE, J.)

shp/-