

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

CIVIL APPLICATION NO. 1700 OF 2015 IN
FIRST APPEAL ST. NO. 33844 OF 2014

The G.M.I.D.C.

Applicant

Versus

Vishwanath Dnyanoba Gholve
& others

Respondents

Mr. A.D. Hande, advocate holding for Mr. A.M. Gaikwad, advocate
for applicant.

Mr. B.V. Virdhe, AGP for respondent no. 3.

CORAM : M.S. SONAK, J.

DATE : 22nd JANUARY, 2018

PER COURT:

1. This is application for staying execution of the impugned award. Ad-interim stay was granted on 25th February, 2015, subject to appellant depositing 50% of the awarded amount alongwith proportionate interest in this Court within a period of 12 weeks from today.

2. Respondents-claimants have filed application to point out that there has been no compliance of this order. The Registry remarks also indicate non-compliance and therefore, affidavit was directed to be filed. Ultimately, affidavit has been filed on 26.09.2017 to indicate that there are deposits made though, not in this Court but in the reference Court. Technically, this constitutes non-compliance. However, the same can be overlooked and condoned. However, affidavit indicates that even 50% amount has

not been deposited within twelve weeks from the date of order. The appellant has not even bothered to file any application for extension of time. Without applying for extension of time, the appellant has deposited this amount before the reference Court without appraising the reference Court of the precise order made by this Court on 25.02.2015. This is again, not at all proper. However, in the interest of justice, even this lapse is condoned.

3. Insofar as confirmation of ad-interim relief is concerned, there is no case made out to deviate on the usual order requiring the appellant to deposit the entire awarded amount and not just 50% of the awarded amount. Learned counsel for appellant submits that compensation amount in this case is quite large. This is hardly a reason to exempt the acquiring body from depositing compensation amount in the event, it wishes to stay the execution. As it is, enough indulgence has been shown to the appellant. Appellant has acquired the lands and now the appellant cannot be permitted to say that they have paucity of funds to deposit compensation amount.

4. Accordingly, ad-interim stay granted on 25.02.2015 is confirmed, subject to appellant depositing the entire awarded amount together with interest, in this Court, within a period of six weeks from today. Appellant shall be entitled to credit for the amount deposited by them before the reference Court. The reference Court is directed to forward said amount to this Court within a period of four weeks from today. Appellant to file necessary application before reference Court alongwith copy of this order so as to facilitate transfer of deposited amount.

5. It is made clear that if the direction for deposit of amount within six weeks is not complied with, then, the stay now confirmed, shall stand vacated without any further reference to this Court.

6. Civil application stands disposed of.

(M.S. SONAK, J.)

dyb