

IN THE HIGH COURT OF BOMBAY AT GOA
MISCELLANEOUS CIVIL APPLICATION NO.474 OF 2019
IN
MISCELLANEOUS CIVIL APPLICATION NO.389 OF 2019
IN
FIRST APPEAL NO.14 OF 2019

Mrs. Subhada Subhash Dhekne & Anr. ... Applicants

Versus

Mr. Suresh Vithoba Gaonkar & Ors. ... Respondents

Shri Sagar Dhargalkar, Advocate for the Applicants.
Shri A.R.S. Netravalkar, Advocate for the Respondent No.3.

Coram:-NUTAN D. SARDESSAI, J.

Date:-30th April, 2019

P.C.:

Heard Shri Sagar Dhargalkar, learned Advocate for the applicants. He submitted that contrary to the directions issued by this Court vide its order dated 10/04/2019, the learned MACT has released only a meagre sum of ₹3,00,000/- and odd in favour of the applicants instead of the entire amount and has ordered the balance amount to be invested in a Fixed Deposit for a defined period though no such period was indicated in the order passed by this Court dated 10/04/2019. He, therefore seeks a modification of the said order and for the release of the amount in his favour.

2. On a perusal of the order passed by this Court dated 10/04/2019 it is apparent that liberty was granted to the appellants to receive the amount without prejudice to their rights and contentions in the appeal raised by them. There was no reason for the learned Trial Court/MACT to restrict the amount to a meagre sum in his favour when the respondent no.3 had deposited a substantial amount of ₹23,14,345/-. Shri Sagar Dhargalkar, learned Advocate for the applicants further submitted that he had shown the medical records of the applicant to the learned MACT before his application could be decided, but which were not taken into consideration by the learned Tribunal while releasing the meagre sum in his favour.

3. In the present application, he has clearly spelt out that the applicant is suffering from fatty liver, hypothyroid and hyper acidity and is under treatment for the same and that he would require huge sum to meet the expenditure. Considering thus the fact that the learned MACT has misconstrued the order passed by this Court, the order of the learned MACT dated 25/04/2019 is quashed and set aside. The applicants are held entitled to withdraw an amount of ₹20,00,000/- to meet their medical expenditure which the learned MACT shall release in

their favour and the rest of the amount shall be invested in Fixed Deposit till the disposal of the First appeal on merits. The letter addressed to the concerned Bank is quashed and set aside. The parties to act on the basis of the authenticated copy of this order. The application accordingly stands disposed off.

NUTAN D. SARDESSAI, J.

NH