

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

CIVIL APPLICATION NO. 1254 OF 2019

IN

WRIT PETITION NO. 1735 OF 2018

M/s. Pushpakaraj Enterprises, Through Its ...Applicant
Prop. Raju Sitaram Landge

Versus

Mahendrakumar Huda ...Respondent

WITH

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Parag V. Dube – Advocate for the applicant

CORAM : DAMA SESHADRI NAIDU, J.

DATE : 4th NOVEMBER 2019.

P.C. :

The petitioner suffered an award, dated 31.10.2017, from the Permanent Lok-Adalat. It directed the petitioner as follows:

1. The Prelitigation application is partly allowed.
2. Opponent shall pay amount of Rs. 16,78,750/- (Sixteen Lakhs Seventy-Eight Thousands Seven Hundred Fifty only) to applicant, at the interest rate

of 9% per annum from the date of this application till its final realization.

3. The opponents shall pay compensation of Rs. 1,00,000/- (One Lakh only) to applicant.

2. Aggrieved, the petitioner has filed this Writ Petition. According to the petitioner's counsel, the Writ Petition was filed in 2017, but numbered in 2018.

3. Pending this Writ Petition, the sole respondent filed an execution petition, before the Civil Judge Senior Division, Pune. But, as the record reveals, the sole respondent died, thereafter. So the petitioner has filed the Civil Application to bring the legal representatives on record. First, as per the petitioner's counsel, the petitioner filed this writ petition when the respondent was alive; second, in close to two years, this writ petition has not come up for hearing—even once; third, the petitioner had no knowledge about the respondent's death, till recently. Thus, there has been no occasion for the petitioner to take out notice to the respondent, since deceased. He came to know about the respondent's death, according to the counsel, when the respondent's legal heirs recently applied to the executing Court to come on record.

4. In fact, the matter is listed today, out of turn, as it was mentioned by the petitioner's counsel.

5. The petitioner's counsel urges this Court to stay the impugned award of permanent Lok-Adalat on the premise that now the executing Court has already issued a warrant of

attachment. That attachment concerns the petitioner's movable properties. The warrant executed, according to the learned counsel, nothing more survives in the writ petition.

6. Indeed, the Writ petition was filed when the respondent was alive. The respondent seems to have filed the execution petition only after the petitioner's filing this writ petition. But the writ petition has been waiting for its turn to be listed for admission. So no notice was given to the respondent; in the meanwhile, he died.

7. The petitioner seems to have filed the Civil Application to bring on record the legal heirs of the deceased respondent, after his coming to know about his death—that is, when his legal representatives applied before the executing Court to come on record.

8. From the extracted portion of the impugned award, I gather the petitioner is required to pay Rs.16,78,750/- with interest @9% per annum from the date of application before the permanent Lok Adalat. The adjudication, as it appears, is summary under Section 22 (C)(8) of the Legal Services Authorities Act, 1987.

9. Under these circumstances, I reckon it serves the interest of justice if the Permanent Lok-Adalat's award or order, dated 31.10.2017, is stayed for a limited period. First, the stay is warranted because the petitioner must bring the respondent's legal heirs record; second in the last years the petitioner has been waiting for his turn to have the matter heard for admission

but could not succeed. We cannot blame him for the delay. Unless the award is stayed, as the petitioner's counsel has contended, the writ petition renders itself academic.

10. Under these circumstances, there shall be an interim suspension of the impugned order, dated 31.10.2017, subject to the petitioner's depositing Rs.9,00,000/- before the trial Court in eight weeks from today.

The Civil Application No. 1254 of 2019 is allowed. The proposed respondents are brought on record. The amendment is to be carried out in two weeks. Issue notice to the respondents now brought on record, returnable in three weeks.

Post the Writ Petition No. 1735 of 2018, after service of notice.

[DAMA SESHADRI NAIDU, J.]