

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

**CIVIL APPLICATION NO.223 OF 2017
IN
FIRST APPEAL (ST.) NO.9609 OF 2016**

Office Notes, Office Memoranda of Coram, Appearances, court's orders or directions and Registrar's orders	Court's or Judge's orders
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Mr.S.S.Jinsiwale for the applicant
None for the respondent

**CORAM : K. K. TATED, J
DATE : MARCH 27, 2019**

P.C.:

. Not on board. At the request of advocate for the Applicant, matter is taken on board for urgent order.

2 Advocate for the applicant submits that they already intimated other side about today's production.

3 The learned counsel for the Applicant submits that Applicant undertakes to file affidavit of service to that effect within one week from today. Statement is accepted.

4 The learned counsel for the Applicant

submits that by this Civil Application they are seeking stay of the operation and implementation of the impugned judgment and award dated 29.08.2015 passed by MACT, Mumbai in Application No.358 of 2008 holding that Respondent original Claimant are entitled compensation to the tune of Rs.2,39,300/- with 7.5% interest from the date of application till realization.

5 The learned counsel for the Applicant submits that Respondent original Claimant filed execution application for recovery of entire awarded amount. He further submits that in that execution application, executing court issued attachment warrant. Hence, there is urgency.

6 The learned counsel for the Applicant submits that he received instructions from their client that they are ready and willing to deposit entire awarded amount with interest in the Tribunal within four weeks from today. Statement is accepted.

7 The learned counsel for the Applicant submits that in the interest of Justice, this Hon'ble court be pleased to stay the operation and implementation of the judgment and award till the final disposal of First Appeal. He submits that if entire amount is recovered by

the Respondent Claimant in execution application then nothing will survive in the First Appeal. Hence, there is urgency.

8 Considering the submissions made by the the learned counsel for the Applicant and as Applicant is ready and willing to deposit entire awarded amount in the Tribunal, I am satisfied that the Applicant has made out a case for allowing Civil Application. Hence, following order is passed

A) Civil Application is allowed in terms of prayer clause (b) on condition that Applicant to deposit entire awarded amount in the Tribunal on or before 30.04.2019, failing which Civil Application shall stand dismissed without referring back to the court. Prayer clause (b) reads thus:

"b. Pending the hearing and final disposal of the First Appeal, this Hon'ble Court be pleased to stay the operation, execution, implementation, effect and further proceedings pursuant to the impugned order and Award dated 29th August 2015, passed by Learned Member, of M.A.C.T.Mumbai in M.A.C.P. No.358 of 2008"

B) If amount is deposited within stipulated time as stated hereinabove Tribunal is directed to invest entire amount in fixed deposit of any nationalized bank initially for a period of one year and same be continued till further orders.

C) Civil Application No.3640 of 2017 filed by the Claimant for withdrawal of the amount be decided on its own merits

D) Civil Application stands disposed of accordingly.

(K.K.TATED, J.)