

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION (ST) NO. 10789 OF 2019
IN
FIRST APPEAL (ST) NO. 10787 OF 2019

Office Notes,
Office
Memoranda of
Coram,
appearances,
Court's orders or
directions and
Registrar's orders

Court's or Judge's orders.

Mr. Amol Gatne for the Applicant.
Mr. Govilkar with Nikhil Jaykar I/b
Ritesh Wagh for Respondent Nos. 1 &
2.

CORAM: K.K.TATED, J.
DATED : 10/10/2019

P.C.

1 Heard learned Counsel for the parties.

2 By this Civil Application, the Applicant Insurance Company is seeking stay of the operation and implementation of the Judgment and Award dated 05.02.2016 passed by MACT, Mumbai in Application No. 369 of 2009 holding that the Respondents original Claimants are entitled to a sum of Rs.1,30,27,000/- by way of compensation with interest @ 7.5 % p.a.

3 The learned Counsel for the

Applicant submits that Respondent original Claimants filed execution application for recovery of entire awarded amount. He submits that the next date before the executing court is 14.10.2019. He submits that they have good chance of success in the present matter. He submits that if entire amount is recovered by the Respondents Claimants in Execution Application, then nothing will survive in this First Appeal. He submits that in the interest of justice, this Hon'ble Court be pleased to stay the operation and implementation of the Judgment and Award passed by the Tribunal.

4 The learned Counsel for the Applicant submits that he received instructions from his client that they are ready and willing to deposit the entire amount with interest within four weeks from today. The statement is accepted.

5 The learned Counsel for the Respondent original Claimant submits that till next date of hearing the Civil Application (ST) No. 10788 of 2019 for condonation of delay, they will not make any application for withdrawal of the said amount. The statement is

accepted.

6 Considering the submissions made by the learned Counsel for the Applicant and observations made by the Tribunal and as Applicant is ready and willing to deposit the entire amount in the Tribunal on or before 07.11.2019, I am satisfied that Applicant has made out a case for allowing this Civil Application.

7 Hence, the following order is passed:

a) Civil Application is allowed in terms of prayer clause (a) on condition that Applicant to deposit the entire awarded amount with interest in the Tribunal on or before 07.11.2019, failing which Civil Application shall stand dismissed without further reference to the Court. Prayer clause (b), reads thus:

“b) Your Lordship be pleased to stay the execution, operation and implementation of the impugned Judgment and order/Award dt 5/2/2016, passed by the Member, MACT Mumbai, Dist: Mumbai in MACP No. 369/2009, till the final hearing and disposal of the First Appeal, as against the Applicant.”

b) If amount is deposited within stipulated time, the Tribunal is

directed to invest the amount in fixed deposit of any Nationalised Bank, initially for a period of one year and same to be continued till further order.

c) Liberty is granted to the Respondents-Claimants, if they so desire, to prefer an appropriate application for withdrawal of amount and that to be decided on its own merits.

d) Civil Application stands disposed of accordingly.

e) No order as to costs.

(K.K.TATED, J.)