

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

Civil Application No. 1578/2019
in
First Appeal (ST) No. 13581/2019

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. Nikhil Mehta I/b. KMC Legal Venture for
the Applicant
Mr. S. S. Vaidya for the Respondent

CORAM : K.K.TATED, J.
DATED : MAY 3, 2019

P.C.

Pursuant to the praecipe filed by the advocate for the Applicant the matter is taken on production board.

2 By this Civil Application, the Applicant is seeking stay to the operation and implementation of the judgment and award dated 14.09.2018 passed by the MACT, Mumbai in Application No.1826/2012.

3 The learned counsel for the Applicant submits that the Respondent claimant has filed Execution Application in which the executing court has issued attachment warrant. He submits that he received

instructions to deposit the entire awarded amount in the Tribunal on or before 28.06.2019. He submits that during pendency of the present appeal, this Hon'ble Court be pleased to stay the operation and implementation of the impugned judgment and award.

4 On the other hand, the learned counsel for the Respondent - claimant has vehemently opposed the Civil Application. He submits that though the impugned judgment and award was passed on 14.09.2018 the Appellant has filed the First Appeal on 02.05.2019, when the Respondent - claimant filed Execution Application before the Tribunal. He submits that if this court grants stay to the impugned judgment and award the Respondent - claimant may be permitted to withdraw substantial amount.

5 It is to be noted that in the accident which occurred on 07.06.2012 the claimant No.1 lost her husband. She has to maintain her two minor children and her in-laws. Hence, I am of the opinion that the Respondent - claimant may be permitted to withdraw some amount without furnishing

any security but subject to outcome of the First Appeal.

6 Hence, considering the submissions made by the learned counsel for the parties and the reasons disclosed in the Civil Application and as the Appellant is ready and willing to deposit the entire awarded amount in the Tribunal, I am satisfied that the Applicant has made out a case for allowing the Civil Application.

7 Hence, the following order is passed:

a. The Civil Application is allowed in terms of prayer clause (a) subject to the Applicant depositing the entire awarded amount in the Tribunal on or before 28.06.2019, failing which the Civil Application shall stand dismissed without further reference to the court. Prayer clause (a) reads thus:

“(a) That this Hon’ble Court be pleased to stay the execution of the judgment and award dated 14.09.2018 passed in MACT Application No.1826/2012 by Shri S. B. Hedao, Member, MACT at Mumbai.”

b. If amount is deposited within stipulated time as stated hereinabove, claimant No.1 .. is entitled to withdraw Rs.5 lacs and

claimant No.5 Rs. 3 lacs, with accrued interest without furnishing any security but subject to outcome of the First Appeal.

c. The Tribunal is directed to invest the remaining amount in a fixed deposit of any Nationalized Bank, initially for a period of one year and same shall be renewed from time to time till further orders.

d. Liberty granted to the claimants to prefer an appropriate Application for withdrawal of further amount, if they so desire, which will be decided on its own merits.

e. Civil Application stands disposed of accordingly.

(K.K.TATED, J.)