

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
CIVIL APPLICATION NO.481 OF 2017
IN
CIVIL REVISION APPLICATION NO.148 OF 2011

M.M.R.C.L.

... Applicant/Intervener

IN THE MATTER BETWEEN

Modern India Ltd.

... Applicant
(Original Plaintiff)

Vs.

B.P.C.L. & Ors.

...Respondents
(Original Defendants)

.....

Ms. Kiran Bhagalia, i/b. Ms. Chitra Phadke, for the Applicant in CAC/481/2017.

Mr. Mayank Bagla, a/w. Ms. Nikita Vardhan, i/b. Kanga & Co., for the Respondent & Applicant in CRA/148/2011.

Mr. S.R. Page, for BPCL- Respondent No.1 in CRA/148/2011.

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CORAM : S.C. GUPTE, J.

DATED : 16 OCTOBER 2019

P.C. :

. This civil application has been taken out by the Applicant, who intervenes in the matter. The Applicant is Mumbai Metro Rail Corporation. Its case is that for construction of underground Mahalaxmi Station, it requires about 518 sq. mtrs. of suit land, which is the subject matter of the present civil revision application, for temporary possession

for facilitating the work, out of which an area of 316 sq. mtrs. is required for permanent underground rights for Mahalaxmi Station. Total area of 518 sq. mtrs. required by it has been shown delineated in a map annexed to the civil application. So also is delineated on the map the area of 316 sq. mtrs. required for underground permanent construction. The area of 518 sq. mtrs. is said to be admittedly in occupation of the Respondent - Bharat Petroleum Corporation Limited, who were defendants in the revision applicant's suit for eviction, which has since been dismissed by the trial court, and the decree of the trial court has since been affirmed by the appeal court. The present CRA has been filed from these decrees. It is submitted that 518 sq. mtrs. land has been already taken possession of by the Applicant/intervenor and, to that extent, prayer clause (a) of the civil application has been rendered practically infructuous. Learned Counsel for the Respondent/original applicant accepts that possession has been taken over by the Applicant/Intervenor. The question now is only of deposit of compensation, for which the Applicant/Intervenor has made a specific prayer in prayer clause (b) of its civil application. Since possession has already been taken over by the Applicant/ Intervenor, there is no difficulty in allowing this prayer. Accordingly, the Applicant/Intervener is permitted to deposit in Court to the account of the CRA herein an appropriate sum as may be decided by the compensation committee appointed by the Applicant/Internever every six months as advance six monthly payment towards compensation for temporary possession of 518 sq.mtrs. land till completion of underground Mahalaxmi Station and allied construction with liberty to the Applicant/Intervenor for determining the amount of compensation for permanent underground

rights in respect of 316 sq.ft. suit land at such rate as may be decided by the compensation committee appointed by the Applicant/Intervenor for determining compensation for permanent underground rights. The civil application is disposed of accordingly.

(S.C. GUPTE, J.)

Smita
Gonsalves

Digitally signed by Smita
Gonsalves
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