

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

**CIVIL APPLICATION NO. 1756 OF 2016
IN
FIRST APPEAL NO. 1146 OF 2018**

Deshbjakta Ratnappa Kumbhar Janta
Central Co-op. Consumers Stores Ltd. ..Applicant

v/s.

The Regional Director,
Employees State Insurance Corporation & Ors. ..Respondents

Ms. Manisha Devkar a/w. Mr. S.S.Pakale I/b. Mr. S.M. Kotkar for the
Applicant/Appellant
Mr. H.V.Mehta for the Respondent.

**CORAM : SMT. ANUJA PRABHUDESSAI, J.
DATED : 19th JUNE, 2019.**

P.C.

1. By this application, the applicant has sought to stay the operation of the impugned order dated 8th September, 2015 and further to restrain the respondent from taking any action under the ESI Act against the appellant.
2. The applicant had filed an application under Section 75 and 77 of the ESI Act, which came to be dismissed by the impugned order

dated 8th September, 2015 in Application (ESI No.6 of 2002).

3. Being aggrieved by this order, the applicant has preferred the first appeal along with stay application.

4. Order dated 19th September, 2018 indicates that the learned Counsel for the applicant had made a statement that the appellant/applicant would be depositing the entire amount of Rs.34,97,079/- within a period of four weeks. In the light of the said statement, execution of the original order dated 20th June, 2002 was stayed till 4th December, 2018. The appellant was put to notice that upon failure to deposit the said amount of Rs.34,97,079/- within the stipulated period, stay would stand vacated automatically without further reference to the Court.

5. The learned Counsel for the applicant states that the SLP filed against this Order, has been withdrawn with liberty to file application to modify the order dated 19th September, 2018. The SLP was allowed to be withdrawn on 15th March, 2019. It is reported that application for modification has been filed today.

6. It is to be noted that stay was granted in view of the statement made by the applicant. The applicant has not deposited the amount

within four weeks as undertaken. As a consequence thereof, stay granted by order dated 19th September, 2018 stood vacated. The applicant has not shown the willingness to comply with the undertaking. In fact, the applicant has expressed inability to deposit the amount. Under the circumstances, I am not inclined to grant stay.

7. Civil Application is dismissed.

8. First appeal be listed for admission after a period of three weeks.

(ANUJA PRABHUDESSAI, J.)