

vai

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION NO.1005 OF 2016
IN
FIRST APPEAL NO.1055 OF 2014

Sahebrao P. Dongre & Ors.

...Applicants

IN THE MATTER BETWEEN :

Nanu K. Natrajan

...Appellant

V/s.

Sahebrao P. Dongre & Ors.

...Respondents

Mr.T.J. Mendon for the Applicants / Respondent Nos.1 to 5.

Dr.Dhanalakshmi Iyer i/b Mr.Baldev H. Bhalwal for the Appellant.

CORAM : R.D. DHANUKA, J.
DATE : 25TH FEBRUARY, 2020.

P.C. :-

1. By this civil application, the applicants (original applicants) seek liberty to withdraw the amount deposited by the appellant. The civil application is pending since 2016. No affidavit in reply has been filed by the original appellant till date.

2. The civil application is opposed by the learned counsel for the appellant on the ground that the application for compensation by the applicants before the M.A.C.T. was not in compliance with Rule 254 of Chapter – IX and more particularly section 254 (5)(iii) which provides that certified copy of Form Comp “AA” of the First Schedule mentioned in sub-rule (8) of the said rule has to be annexed.

3. Neither any such objection was raised before the Tribunal nor in the appeal memo filed in these proceedings. No reply is filed by the appellant though served well in advance.

4. The reasons for seeking withdrawal of the amount are set out in paragraphs 4 and 5 of the civil application and are accepted. The case is made out for withdrawal of 50% of the amount deposited by the appellant upon the applicants filing an undertaking before the Tribunal to the effect that if the applicants fail in this First Appeal, they will return the amount that was allowed to be withdrawn with interest at such rate as may be directed by this Court by subsequent order. Such undertaking shall be filed within two weeks from today. A copy of such undertaking shall be served upon the appellant's advocate simultaneously.

5. It is made clear that if an undertaking is not filed within the time prescribed, the order passed today permitting the applicants to withdraw the amount shall stand vacated without further reference to Court. In that event the amount deposited by the appellant if not invested, shall be invested by the concerned M.A.C.T. in the fixed deposit of a nationalized bank initially for a period of five years and thereafter for like period depending upon the pendency of the First Appeal. The balance 50% of the amount, if not invested shall also be invested in the similar manner.

6. The civil application is disposed of in aforesaid terms.

There shall be no order as to costs.

7. Hearing of the First Appeal is expedited.

8. All parties as well as the Tribunal to act on the authenticated copy of this order.

(R.D. DHANUKA, J.)