

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

**CIVIL APPLICATION NO.2778 OF 2017
IN
FIRST APPEAL (ST.) NO.6927 OF 2017**

The Commissioner,
Nashik Municipal Corporation .. Applicant/Appellant
Vs.
Suresh Sumatilal Shah & Ors. .. Respondents

**ALONG WITH
CIVIL APPLICATION NO.3064 OF 2017
IN
FIRST APPEAL (ST.) NO.6906 OF 2017**

The Commissioner,
Nashik Municipal Corporation .. Applicant/Appellant
Vs.
Ayodhyabai Nandlal Dhut & Ors. .. Respondents

**ALONG WITH
CIVIL APPLICATION NO.3226 OF 2017
IN
FIRST APPEAL (ST.) NO.6954 OF 2017**

The Commissioner,
Nashik Municipal Corporation .. Applicant/Appellant
Vs.
Kalawatibai Govind Chandrate (since deceased)
through her legal heirs
1.1 Rajani Ramesh Kulkarni (since deceased)
through her legal heirs
1.1A Manjusha Kumar Dudhat & Ors. .. Respondents

**ALONG WITH
CIVIL APPLICATION NO.3232 OF 2017
IN
FIRST APPEAL (ST.) NO.6977 OF 2017**

The Commissioner,
Nashik Municipal Corporation .. Applicant/Appellant
Vs.
Kisan Sakharam Govardhane & Ors. .. Respondents

Mr. Murlidhar L. Patil, Advocate for the Applicant/Appellant.

Mr. Sachin Gite, Advocate for the Respondent Nos.2 to 6 in CAF/2778/2017, for Respondent Nos.1 to 3 in CAF/3064/2017, for Respondent Nos.4B, 4C,4D, & 6 in CAF/3226/2017 and for Respondent Nos.2 and 3 in CAF/3232/2017.

Mr. Yogesh Dabke, Asst. Government Pleader, state, Advocate for the Respondent No. 8 in CAF/2778/2017, for Respondent No.4 in CAF/3064/2017, for Respondent No.7 in CAF/3226/2017, for Respondent No.4 in CAF/3260/2017-State.

CORAM : R.D.DHANUKA, J.

DATE : 22nd January 2020

P.C.:

. Mr.Patil, learned counsel for the applicant states that though this Court had directed the applicant to deposit the decretal amount, the applicant could not deposit the amount due to unavoidable circumstances.

2. The applicant is directed to deposit the entire decretal amount with interest to be computed upto the date of deposit within four weeks from today with the Reference Court. Undertaking is accepted.

3. In view of the undertaking rendered by the learned counsel for the applicant, for a period of four weeks from today, the respondents shall not execute the impugned judgment and award passed by the Reference Court. It is made clear that no further extension of time would be granted. If the said amount is not deposited within the time prescribed, the ad-interim order passed by this Court today to stand vacated without further reference to the Court.

4. The respondents (original claimants) are permitted to withdraw 50% of the amount that would be deposited by the applicant with the Reference Court, at this stage, upon the original claimants furnishing an undertaking before the Reference Court within four weeks from the date of communication of the order of deposit to the effect that if they do not succeed in this first appeal, they would return the amount that would be withdrawn with interest at such rate as this Court may direct by subsequent order. Copy of the undertaking shall be served upon the learned advocate appearing for the applicant within one week from the date of filing such undertaking. Amount would be withdrawn only after filing such undertaking.

5. It is made clear that if the undertaking is not furnished within four weeks from the date of communication of the order of deposit, the order passed by this Court allowing the original claimants to withdraw 50% of the amount that would be deposited by the applicant to stand vacated without further reference to the Court. In that event, the Reference Court shall invest the said amount in a fixed deposit of a nationalized bank initially for a period of five years and thereafter for like period after obtaining further orders from this Court depending upon the pendency of the first appeal.

6. The Reference Court is directed to invest the balance 50% of the amount in a fixed deposit of a nationalized bank initially for a period

of five years and thereafter for like period after obtaining further orders from this Court depending upon the pendency of the first appeal.

7. The aforesaid civil applications are disposed of on aforesaid terms. Parties as well as the Reference Court to act on the authenticated copy of this order.

R.D.DHANUKA, J.