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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION NO.3260 OF 2017
IN
FIRST APPEAL NO.1243 OF 2017

The Commissioner,
Nashik Municipal Corporation, Nashik
V/s.
Trupta I. Dhingra & Ors.

...Applicant

...Respondents

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

Mr.Sachin Gite for the Respondent Nos.1, 2-A and 3.

Mr.A.R. Patil, Additional Government Pleader for the State –
Respondent No.4.

CORAM : R.D. DHANUKA, J.
DATE : 2ND MARCH, 2020.

P.C. :-

1. Not on board. Taken on board along with Civil Application No.3260 of 2017 in First Appeal No.1243 of 2017. There is no dispute that the First Appeal No.1243 of 2017 in which Civil Application No.3260 of 2017 is filed for stay is identical to the First Appeal (Stamp) No.6927 of 2017 and other companion matters in which interim orders came to be passed by this Court on 22nd January, 2020. This Court had also admitted those First Appeals by an order dated 22nd January, 2020. Though First Appeal No.1243 of 2017 is also admitted, no separate order was passed in the Civil Application for seeking stay by the impugned judgment and award.

2. Mr.Patil, learned counsel for the applicant states that though this Court had directed the applicant to deposit the decretal amount in Civil Application No.2778 of 2017 in First Appeal (Stamp) No.6927 of 2017 and other companion matters, the applicant is not in a position to deposit any amount for want of Standing Committee Resolution as on today. Since as on today the Standing Committee resolution passed by the Corporation appointing eight members to the Standing Committee has been stayed by the Government. Statement is accepted.

3. The applicant is directed to deposit the entire amount with interest to be computed upto the date of deposit within four weeks from today with the Reference Court. 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 amount is not deposited within the time prescribed. Interim relief granted by this Court 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 Commissioner, Municipal Corporation, Nashik is directed to deposit the amount irrespective of the fact that the Standing Committee is not in a position to grant any sanction for depositing the amount in compliance with the order passed by this

Court.

8. The civil application is disposed of in terms of prayer clause (a) and in aforesaid terms. There shall be no order as to costs.

9. All parties as well as the Reference Court to act on the authenticated copy of this order.

(R.D. DHANUKA, J.)