

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
CIVIL APPLICATION NO. 3745 OF 2019
IN
CIVIL APPLICATION NO. 4202 OF 2017
IN
FIRST APPEAL NO. 23 OF 2019

Rogation Kanakraj Rubin

..... Applicant

IN THE MATTER BETWEEN

The State of Maharashtra

..... Appellant

VERSUS

Rogation Kanakraj Rubin

..... Respondent

Mr.Swapnil Mhatre, i/b. Mr.S.S.Kulkarni for the Applicant.

Ms.Tanaya Goswami, A.G.P. for the Appellant/Respondent in Civil Application.

CORAM : R.D. DHANUKA, J.

DATE : 8th JANUARY, 2020

P.C.

By this civil application, the applicant seeks modification of the order dated 12th December,2018 passed by this court in Civil Application No.4202 of 2017.

2. By the said order dated 12th December,2018, the applicant was permitted to withdraw 50% of the amount agreed to be deposited by the original appellant subject to furnishing solvent security to the satisfaction of the trial court. Learned counsel for the applicant invited my attention to the order passed by the Division Bench of this court on 21st July, 2014 in Civil Application No.2421 of 2014 in First Appeal No.815 of 2014 in support of the submission that the Division Bench of this court had permitted the original claimants to withdraw the entire amount of compensation on furnishing bank guarantee having renewal clause to the satisfaction of the reference court. Learned counsel

submits that his client is also ready and willing to furnish the bank guarantee with renewal clause to the satisfaction of the reference court. Statement is accepted.

3. In view of the fact that the Division Bench of this court in the larger number of matters allowed the withdrawal of the entire amount of compensation on furnishing bank guarantee subject to renewal clause, I am inclined to accept the request of the learned counsel for the applicant to modify the order dated 12th December, 2018 passed in Civil Application No. 4202 of 2017 by permitting the applicant to withdraw the entire amount on furnishing the bank guarantee subject to the renewal clause to the satisfaction of the reference court. It is made clear that the renewal of the amount would be subject to the final outcome of the appeal. Order dated 12th December, 2018 in First Appeal (St) No. 23834 of 2017 is accordingly modified as aforesaid.

4. The applicant would be entitled to withdraw the entire amount with accrued interest that is deposited by the appellant on furnishing bank guarantee of a nationalized bank subject to the renewal clause to the satisfaction of the reference court.

5. Such bank guarantee shall be furnished within twelve weeks from today to the satisfaction of the reference court.

6. Reference court to act on the authenticated copy of this order.

7. Civil application is disposed of in the aforesaid terms. No order as to costs.

[R.D.DHANUKA, J.]