Shailaja

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION NO.2446 OF 2019

IN

FIRST APPEAL NO.421 OF 2019

Shama Sanjay Manjarekar and others.] Applicants

IN THE MATTER BETWEEN:

Shama Sanjay Manjarekar and others.] Appellants

Vs.

The General Manager,]
Bombay Electricity Supply]
& Transport Undertaking,] Respondents

.....

Mr. Niketan Nakhawa, for Applicants.

Ms. Shraddha Chheda i/b Navdeep Vora Associates, for Respondent.

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CORAM : PRITHVIRAJ K. CHAVAN, J.

DATE : 9TH MARCH, 2021.

P.C.

1. This is an application for withdrawal of the amount of compensation by applicants No.1 to 3 i.e widow, major son and major daughter of deceased Sanjay Manjarekar.

2. Heard Mr. Nakhava, learned Counsel for the applicants.

3. Learned Counsel for the applicants submits that the deceased used to contribute entire amount of his earnings towards expenses for the family. The applicants have incurred considerable medical expenses. They are in dire need of money for their daily requirements.

4. Learned Counsel for the respondent-BEST Undertaking, however, objects for withdrawal of the amount of compensation by contending that the respondent has good case on merits.

5. Earlier by an order dated 11th March, 2020 this Court (Smt. Bharati Dangare, J) permitted the applicants to withdraw the amount of Rs.10,00,000/-.

6. Learned Counsel for the applicants submits that the said amount has not yet been withdrawn by the applicants.

7. For the reasons stated in the application, the applicants are permitted to withdraw 50% of the amount of compensation inclusive of Rs.10,00,000/- (the amount permitted to be withdrawn vide an order dated 11th March, 2020) with accrued interest out of the amount of compensation deposited by the respondent-BEST Undertaking.

8. The applicants shall furnish an undertaking at the time of withdrawing the amount that if the respondent-BEST Undertaking succeeds in the appeal, they will refund the amount with interest at such rate as would be directed by this Court depending upon the outcome of the first appeal.

9. If applicants do not file an undertaking at the time of withdrawing the amount of compensation, the amount deposited by the respondent shall be invested by the M.A.C.T in the fixed deposit of a Nationalized Bank for a period of one year and thereafter for one more year again after obtaining order from this Court.

10. If 50% amount is withdrawn by the applicants, balance amount shall be invested by the M.A.C.T in a fixed deposit as stated above, in a Nationalized Bank.

11. The application stands disposed of.

[PRITHVIRAJ K. CHAVAN, J.]