Uday S. Jagtap

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION NO. 2136 OF 2017
IN
FIRST APPEAL (ST.) NO. 25606 OF 2016

Rajeshree Rajendra Pawar & Anr. ..Applicants
In the matter between
Royal Sunderam Alliance Insurance Co. Ltd. .. Appellant
Vs.
Rajeshree Rajendra Pawar & Anr. ..Respondents
.....

None for the applicants
Mr. Nikhil Mehta i/b KMC Legal Venture for the appellant

CORAM : PRITHVIRAJ K. CHAVAN, J.

DATE : 5TH MARCH, 2021.

P.C.

1. By this application, the applicants seek to withdraw the amount of compensation with accrued interest deposited by the appellant – insurer in M.A.C.T. Mumbai.

2. The M.A.C.T., Mumbai by judgment and award dated 10th March, 2016 passed in Application No. 2759 of 2010 awarded compensation of Rs.28,41,900/- with interest at the rate of 9% p.a. to the claimants from the date of filing of the application till its realization.

3. None appears for the applicants today. Even on the last date, since none appeared the matter was kept today.

4. I have gone through the application and praecipe

5. In para 6 of the application, various grounds have been made out necessitating withdrawal of the amount.

6. A few of the grounds, which can be highlighted are that house of the applicant's has been demolished in the process of re-development and that the developer has stopped paying rent / compensation. The applicants are required to pay huge rent. Secondly, the applicant no.2 is taking education for which applicant no.1 requires to pay huge tuition fees. Thirdly, brothers of the deceased have wrongly claimed their rights in the earlier tenanted premises, where the deceased and the applicants were residing. Fourthly, the income of applicant no.1 is not sufficient to meet day-to-day house hold expenses such as electricity bills, phone bills, gas cylinders, tuition fees and medical expenses etc.

7. Mr. Mehta learned Counsel for the respondent, however, objects withdrawal of the amount of compensation.

8. Having considered the grounds in the application, at this stage, it would be in the interest of justice to permit the applicants to withdraw 50% of the amount of compensation with accrued interest. The applicant no.1 shall furnish an undertaking within two weeks that if the appellant - insurer succeeds in appeal, the applicants shall 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 the applicant no.1 does not file an undertaking within the aforesaid period, the amount deposited by the appellant - insurer shall be invested by the M.A.C.T in a fixed deposit in any Nationalized Bank for a period of one year and thereafter for one more year again after obtaining an 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.)