

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
INTERIM APPLICATION NO.2810 OF 2021
IN
FIRST APPEAL (ST.) NO.20154 OF 2018

The New India Assurance Co. Ltd. .. Applicant

Vs.

Nilima Santosh Gulunjkar & Ors. .. Respondents

...

Mr. Shalini Shankar for the applicant.

...

CORAM : SMT. BHARATI DANGRE, J.

DATED : 11TH OCTOBER, 2021.

P.C:-

1. On 01/08/2021, the following order came to be passed in the National Lok Adalat.

“1. Not on board. Taken on board.

2. Ms. Shankar, learned advocate for the appellant, on instructions, seeks leave to withdraw the appeal. Leave, as prayed, is granted.

3. The appeal and the civil application, if any,

AJN

stand disposed of as withdrawn.

4. Court fee be refunded to the appellant as per the rules.

5. The amount, if any, deposited, be paid to the claimant along with interest as per the order of the Tribunal.

6. Statutory amount deposited in this Court along with accrued interest, if any, be transferred to the Tribunal.”

2. The applicant, on affidavit, states that there was no instruction given to Mr. Dilip Mahadik to withdraw the appeal nor was the appellant desirous of withdrawing the appeal as has been recorded in the order dated 01/08/2021. The submission of learned counsel is that the order has been recorded under mistake and a prayer is made to restore the appeal to its file so that it can be heard on merits.

3. On perusal of the affidavit and on hearing learned counsel for the applicant, I deem it appropriate to restore the file to this court. Since the disposal of the appeal is recorded to be on an erroneous assumption that the applicant is desirous of withdrawing the appeal, the First Appeal (St.) No.20154 of 2018 is restored to its file. Learned counsel for the applicant states that the insurance company has challenged the impugned judgment and order of the MACT on the ground of its quantum and the appeal itself is liable to be heard expeditiously.

4. Since the delay in filing the first appeal has already been condoned, the Registry is directed to register the appeal. On its registration, issue notice to the respondent on final hearing, which is made returnable on 13/12/2021.
5. If the appellant is desirous of hearing the appeal finally, the appellant shall prepare private paper-book and tender it in the court on the next date of hearing.
6. The registry is also directed to call for R. & P.

[SMT. BHARATI DANGRE, J.]