Shailaja

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

INTERIM APPLICATION NO.4254 OF 2019

IN

FIRST APPEAL NO.287 OF 2020

IFFCO TOKIO General Insurance Co. Ltd.] Applicant

Vs.

Minaxi Alias Minakshi Mohanlal Pancholi]

and another.] Respondents

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Ms. Deepika Prabhala i/b Res Juris, for Applicant.
None for Respondents.

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CORAM : PRITHVIRAJ K. CHAVAN, J.

DATE : 21st JANUARY, 2021.

P.C.

1. A praecipie is moved by the applicant-insurer as Member, M.A.C.T, Thane has listed the matter for issuing warrant of attachment against the Insurance Company. The applicant has, therefore, sought interim stay to execution and implementation of warrant of attachment.

2. M.A.C.T, Thane by a Judgment and Award dated 8th July, 2019 in M.A.C.P No.360 of 2014 awarded compensation in a sum of Rs.34,49,700/- with interest @ 8% p.a from the date of application till its realisation.

3. The learned Counsel makes a statement that an amount of Rs. 50,00,756/- (including interest) has been deposited with Member, M.A.C.T, Thane, under protest. A photostat copy of the application moved before the M.A.C.T, Thane is tendered on record. It reveals that the Insurance Company had deposited the cheque. Whether the cheque has been realised or otherwise is required to be ascertained, however, statement made by the learned Counsel is accepted. Therefore, there shall be ad-interim relief in terms of prayer clause (b). If it is noticed that the cheque in question had not been realised, ad-interim relief shall stand vacated automatically without further reference to the Court.

4. After depositing the amount, the applicant shall inform the respondents-claimants about the factum of deposit within one week.

5. The respondents are at liberty to withdraw 50% of the amount deposited by the applicant-insurer before the concerned M.A.C.T, upon furnishing an undertaking within one week that if the applicant-insurer succeeds in the appeal, the respondents-claimants shall return the amount with interest at such rate as would be directed by this Court, depending upon the outcome of the first appeal.

6. If the respondents do not file an undertaking within the aforesaid period, the amount deposited by the applicant 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.

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 If 50% amount is withdrawn by the respondents, balance amount shall be invested by the M.A.C.T in a fixed deposit as stated above, in a Nationalized Bank.

8. The application stands disposed of.

[PRITHVIRAJ K. CHAVAN, J.]