

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
INTERIM APPLICATION NO.2833 OF 2022
IN
APPEAL FROM ORDER NO.711 OF 2014

M/s.Deccan Retreat and M/s. Regent .. Applicant
Bhairavi Coporation

Versus

Maharashtra State Road .. Respondents
Development Corporation Ltd. & Anr.

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Mr.Ruchir L. Tolat i/b M/s.L.C.Tolat & Co. for the Applicant.
Dr.Milind Sathe, Senior Counsel with Mr.Arun Siwach,
Ms.Priyanka Mitra, Mr.Karan Gandhi i/b Cyril Amarchand
Mangaldas for the Respondent.

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CORAM: BHARATI DANGRE, J.
DATED : 28th APRIL, 2022

P.C:-

1. The present application is taken out by the applicant, seeking extension of time for compliance of the directions contained in the order dated 11/06/2021, passed in Interim Application (St) No.9609 of 2021.

I need not go deep into the controversy involved between the parties and suffice to say that on 11/06/2021, this Court, taking into consideration the concession created in favour of the applicants as regards the payment of arrears of

compensation, rejected the prayer for deduction in the amount of compensation, but deemed it appropriate to bifurcate the amount of compensation in two parts, as reflected in the operative portion of the order, clause (ii) to pay 50% of the amount of compensation i.e. Rs.7,50,000/- on or before 15th day of a month alongwith appropriate component of GST, for and from the month of June, 2021 till the order of lock-down is fully withdrawn by the State and the second direction, being to pay the balance amount of compensation i.e. Rs.7,50,000/-, after the lock-down is fully withdrawn, divided into five monthly equated installments, after a date on which order of lock-down is withdrawn. The very same order stipulated a situation of default in payment of the aforesaid amount, and provided that in that contingency, the agency agreement shall stand terminated and the Court Receiver shall take physical possession of the food track within one week.

2. This order was subjected to challenge in Special Leave Petition before the Hon'ble Supreme Court and by order dated 12/07/2021, no indulgence was shown and the Special Leave Petition came to be dismissed.

3. Another Review Petition came to be filed vide Review Petition No.01 of 2021 before this Court, seeking review of the order dated 11/06/2021, particularly paragraph 17(v), which directed that the compensation paid for April, 2021 be excluded from adjustment, since in March, 2021, food track was fully operational. However, the same was not entertained by the learned Single Judge (Coram : Sandeep K. Shinde, J.) in

the wake of dismissal of the SLP, by recording that one of the ground in the SLP was that, the High Court erred in not granting adjustment of the amount paid by the petitioner on account of lease rent for the month of April, 2021 on the ground that the Food Track business in the month of March, 2021 was fully operational.

4. The learned counsel for the applicant states that in the present case, the extension is sought only qua direction No.(ii) of the order dated 11/06/2021, as regards the payment of balance compensation amount i.e. Rs.7,50,000/- to be paid in five equated monthly installments, commencing from the month, after a date on which order of lock-down is withdrawn.

5. The learned counsel would submit that the pandemic posed serious difficulties for all those in business and considering this, he seeks extension of the period of five equated monthly installments and though he seek extension by 15 months, I am not inclined to grant the same. However, considering the peculiar financial situation of the applicant, which is sought to be projected, I am inclined to spread over the payment of amount of Rs.7,50,000/- in seven equated monthly installments, instead of five. The other conditions shall remain intact, including clause (vi) in the order dated 11/06/2021.

With the aforesaid modification in clause (ii) extending the installments by two, the order will operate in it's earlier form.

The Interim Application stands disposed off.

6. The learned senior counsel has invited my attention to the another important facet, being the pendency of Special Civil Suit Nos.503 of 2011 and 634 of 2011 on the file of the learned Judge, Commercial Division, Panvel Raigad.

Considering the pendency of the suits for more than a decade, the concerned Court shall make every endeavour for expeditious culmination of the suits. Needless to state that the parties shall render their co-operation to the learned Judge.

(SMT. BHARATI DANGRE, J.)