

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

FIRST APPEAL NO.9 OF 2020

M/s. Ekesha Construction Co. Pvt.
Ltd

...Appellant

Versus

Nasruddin Subrati Ansari and Ors.

...Respondents

**WITH
INTERIM APPLICATION NO.788 OF 2020
IN**

FIRST APPEAL NO.9 OF 2020

Nasruddin Subrati Ansari and Ors.

In the matter between

...Appellant

M/s. Ekesha Construction Co. Pvt.
Ltd

Versus

Nasruddin Subrati Ansari and Ors.

...Respondents

**WITH
FIRST APPEAL NO.1261 OF 2019**

Nasruddin Subrati Ansari and Anr.

...Appellants

Versus

Mohammad Jafir Abdul Gaffar
Shaikh and Ors.

...Respondents

.....

Mr. Prithvi Raj Singh for the Appellant in FA/09/2020

Ms Rina Kundu for the Appellant in FA/1261/2019 and for the
Applicant in IA/788/2020

Mr. D.S. Joshi for Respondent No.6 in FA/09/2020 and for Respondent
No.3 in FA/1261/2019.

Ms Subhasree Chatterjee for Respondent No.5 in FA/09/2020 and for
Respondent No.3 in FA/1261/2019.

CORAM : SMT. ANUJA PRABHUDESSAI, J.

DATED: 14th JUNE, 2022.

P.C.:-

1. First Appeal No.1261 of 2019 is not on board. Taken on board.
2. The Appellants as well as the Respondent No.4 in WCA application No.374-B-57 of 2006 have challenged the judgment and award dated 16/08/2018 whereby the learned Commissioner Employees' Compensation and Judge, Second Labour Court, Mumbai, has allowed the application filed by the Applicants/Claimants under Section 4 of the Employees Compensation Act. The insurer has been directed to pay to the Applicants/Claimants Rs.4,23,580/-, whereas Mohammad Jafir Abdul Gaffar Shaikh, Opponent No.2 in the said application has been directed to pay penalty of 50% on compensation amount and M/s. Ekesha Constructions Co. Pvt. Ltd., Respondent No.4 to pay interest @ 12% on compensation of Rs.4,23,580/-.
3. The insurer has already paid Rs.4,23,580/-. The original claimants, M/s. Ekesha Constructions Co. Pvt. Ltd. and M/s. Mahindra Lifespace Developers Ltd. have entered into an amicable settlement. They have placed on record the consent terms, which read thus:-

“The above referred First Appeals are unconditionally withdrawn by and on behalf of the respective Appellants on the following terms:

 1. Respondent No. 3 in FA No. 1261 of 2019 and Respondent

No. 5 in FA No. 9 of 2020 (hereinafter referred to as “MLDL” for brevity) and Respondent No. 4 in FA No. 1261 of 2019 and Appellant in FA No. 9 of 2020 (hereinafter referred to as “Contractor” for brevity) shall jointly deposit and/or kept deposited, as the case may be, a settlement amount aggregating to Rs.8,00,000/- (Rupees Eight Lakh Only) (“Settlement Amount”) with the Registrar, Appellate Side of this Hon’ble Court, in favour of the Appellants and Respondent No. 6 in FA No. 1261 of 2019 being Applicants (“Original Applicants”) in Application (ECA) No. 374/B-57 of 2006 before the Ld. Second Labour Court at Mumbai as per the terms described hereinbelow, in lieu of the Decretal amount payable and/or to be deposited under as well as in execution of the Judgment dated 16th August, 2018 (“Judgment”) in Application (ECA) No. 374/B-57 of 2006 of the Ld. Second Labour Court at Mumbai:

a) MLDL shall deposit a cheque dated 4th May, 2022 bearing No. 001762 drawn on HDFC Bank for an amount of Rs.7,00,000/- (Rupees Seven Lakh Only), being the share of MLDL in the Settlement Amount, on humanitarian ground and without admission of any liability, on or before 6th May, 2022;

b) The Contractor has already deposited Rs.3,69,000/- (Rupees Three Lakh Sixty Nine Thousand Only) as per Order dated 3rd December, 2019 in Civil Application No. 3592 of 2020 in FA No. 9 of 2020 with this Hon’ble Court, from and out of which Rs.1,00,000/- (Rupees One Lakh Only), being share of the Contractor in the Settlement Amount, shall be kept deposited by the Contractor. The Contractor shall be allowed to withdraw

balance amount of Rs.2,69,000/- (Rupees Two Lakh Sixty Nine Thousand Only) alongwith the accrued interest as per Rules.

2. Upon payment and/or deposit of the Settlement Amount by the respective parties as described in paragraph 1 hereinabove, the above referred FAs alongwith all the pending Civil Applications and Interim Applications shall stand withdrawn unconditionally and on behalf of all the parties it is agreed and declared that the Judgment shall stand completely and absolutely executed without having any grievance and/or claim against any party whatsoever.

3. In view of the above as well as subject to performance of the terms described in paragraph 1 hereinabove, MLDL as well as the Contractor shall be absolved of all the liabilities and/or responsibilities under the terms of the Judgment and/or generally and the Original Applicants shall not have any further Claim under the Judgment.

4. In view of the above, the Recovery Application (WCA) No. 409/G-37/2018 in Application (ECA) No. 374/B-57 of 2006 pending before the Ld. Second Labour Court at Mumbai shall stand withdrawn unconditionally.”

4. Consent terms are signed by the Applicants/Claimants and the representatives of M/s. Ekesha Constructions Co. Pvt. Ltd. and M/s. Mahindra Lifespace Developers Ltd. The original claimants and the representatives of M/s. Ekesha Constructions Co. Pvt. Ltd. and M/s. Mahindra Lifespace Developers Ltd. have confirmed the contents of the

consent terms. Learned counsel for Respondent No.3-M/s Mahindra Lifespace Developers Ltd. makes a statement that cheque for Rs.7,00,000/- will be deposited within three days. The statements made by the parties in the consent terms as well as by their respective counsel are accepted as undertakings to the Court.

5. The Contractor in terms of clause 1(b) of the consent terms is allowed to withdraw balance amount of Rs.2,69,000/- along with accrued interest. Original Claimants /parents of the deceased are permitted to withdraw the compensation along with accrued interest in equal proportion.

6. The appeals stand disposed of in view of the consent terms.

7. In view of disposal of the appeals, interim application(s), if any, stand disposed of.

(SMT. ANUJA PRABHUDESSAI, J.)