

Sushma

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

CIVIL APPLICATION NO. 3608 OF 2020
IN
SECOND APPEAL NO. 210 OF 2009

Muktabai Ghanshyam Ban and another ... Applicants

Versus

Datta Sasthan Dabhada Reg. Public Trust
Through Manikrao Anandrao Tekale
LRs Ramchandra Kishanrao Dabhadkar and another ... Respondents

...
Mr. V.R. Dhorde – Advocate for Applicants
Mr. V.V. Bhavthankar – Advocate for Respondent No. 1
...

CORAM : GAURI GODSE, J.
DATE : 21st February, 2023

PER COURT :

1. This application is filed for interim relief pending the Second Appeal.
2. Second Appeal is already admitted.
3. By order dated 20th March, 2020, there was ad-interim relief granted directing respondent No. 2 not to disburse the amount. The respondent No. 2 is the Competent Authority under the National Highways Act and the amount under dispute is with

respect to the compensation awarded under the provisions of the National Highways Act. The order impugned in the Second Appeal arises out of the suit of respondent no. 1 with respect to declaration and injunction which is decreed and the same is confirmed by the first appellate court. The second appeal is admitted on 21st March, 2009, on the following substantial questions of law :

“(i) Whether the Civil Court has no jurisdiction to decide whether a particular property is a trust property ?

(ii) Whether in view of the impugned decision of this Court in Appeal From Order No. 109 of 1998 decided on 7th march, 2000, no more reference of the issue regarding suit property being trust property can be referred to the competent authority ?

(iii) Whether the suit is tenable in absence of joinder of all the trustees ?”

4. Considering the dispute with respect to the ownership of the suit property, it will be in the interest of the parties that the amount is secured with the Competent Authority. Hence, considering the nature of the dispute, the ad-interim order passed by order dated 20th March, 2020, directing respondent no. 2 not to disburse the

amount will continue during the pendency of the Second Appeal.

5. The respondent no. 2 shall invest the amount of compensation in some Nationalized Bank and keep the amount invested till further orders in the Second Appeal.
6. Civil Application is disposed of.

[GAURI GODSE, J.]