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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

INTERIM APPLICATION NO.3812 OF 2023
IN
FIRST APPEAL (STAMP) NO.8244 OF 2023

Municipal Corporation of Gr.Mumbai ...Applicant
V/s.
Smt.Smita S. Bankar & Ors. ...Respondents

Mr.Santosh Parad for the Appellant – MCGM and for the Respondent
in IA.

Mr.Nikhil Mehta i/b KMC Legal Venture for the Respondent.

CORAM : RAJESH S. PATIL, J.
DATE : 25TH SEPTEMBER, 2023.

P.C. :-

1. This Application is filed for condoning the delay in filing the First Appeal. The counsel for Respondent has vehemently opposed this Interim Application.
2. I have heard both sides and I have gone through the contents of the application. I am satisfied that the Applicant has made out a case to condone the delay. Hence, Interim Application is allowed in terms of prayer clause (a).
3. The Interim Application stands disposed of.

WITH
INTERIM APPLICATION NO.3814 OF 2023

IN
FIRST APPEAL (STAMP) NO.8244 OF 2023

Municipal Corporation of Gr.Mumbai	...Applicant
V/s.	
Smt.Smita S. Bankar & Ors.	...Respondents

1. This Interim Application is filed seeking stay to the execution and implementation of the impugned Judgment and Award passed by the MACT, Mumbai.

2. By an order dated 20 April 2023, interim relief was granted to the Applicant. Pursuant to which the Applicant has deposited entire 'Award' amount in MACT,Mumbai with interest.

3. In view of the same, interim relief granted on 20 April 2023 is extended till the disposal of the First Appeal.

4. Interim application is accordingly disposed of.

WITH
INTERIM APPLICATION NO.12984 OF 2023
IN
FIRST APPEAL (STAMP) NO.8244 OF 2023

Smt.Smita S. Bankar & Ors.	...Applicant
V/s.	
Municipal Corporation of Gr.Mumbai	...Respondents

1. This Interim Application is preferred by Applicant No.1 who is widow of deceased and Applicant No.5 is the mother of the deceased. Applicant Nos.2 and 3 are minor children of the deceased.

Applicant No.4 was the father of the deceased, who died during the pendency of Appeal before MACT, Mumbai.

2. The Applicants submit that they are facing great hardship due to sudden demise of the deceased. The deceased was the only the bread earner of the family and due to his death, the family is suffering both financially and emotionally. The Applicants have not even received the amount of Rs.50,000/-, under Section 140 of the M.V. Act, 1988 which was to be deposited as per the order dated 8 April 2019. It is further submitted that the deceased was aged 39 years at the time of unfortunate accident. It is further submitted that even though the award has been passed by MACT, Mumbai Municipal Corporation has filed an Appeal and have deposited the entire award amount, pursuant to which this Court has granted stay to the execution of the impugned judgment and award. Since the Appeal is of the year 2023, it will take some time to hear it and dispose of finally. After the interim stay was granted by this Court, the Respondent has deposited the entire amount of award along with interest.

3. I have heard both the sides and I have gone through the contents of the Interim Application. According to me, in the interest of justice, it would be appropriate if the Applicant Nos.1 and 5 are permitted to withdraw 60% of the 'Award' amount deposited by the

Municipal Corporation as per the ratio mentioned in the impugned Judgment and Award.

4. The Advocate for the Corporation has opposed this Application and submits that amount of 25% of the award amount can be allowed to be withdrawn subject to filing an undertaking which will be till the disposal of Appeal.

5. The Registry to see that the money is transferred to the account of Applicant No.1 and 5.

6. The 60% of the 'Award' amount awarded to the Applicant Nos. 1 and 5 is allowed to be withdrawn, upon furnishing an undertaking before the concerned MACT to the effect that if they fail in this First Appeal, they will return the amount with interest, at such rate as may be directed by this Court at the time of disposal of the First Appeal.

7. Balance amount shall be invested in the fixed deposit of a nationalized bank initially, for a period of one year and thereafter for like period depending the pendency of this Court.

8. All the parties to act on an authenticated copy of this order. Issuance of certified copy of this order is expedited.

9. The interim application is accordingly disposed of.

WITH
FIRST APPEAL (STAMP) NO.8244 OF 2023

Municipal Corporation of Gr.Mumbai
V/s.
Smt.Smita S. Bankar & Ors.

...Appellant

...Respondents

1. Admit. Printing dispensed with.
2. The learned counsel for the parties state that a short issue is involved in this matter, and the matter can be disposed at an early date. The parties agree to file a compilation of document, short synopsis along with their preposition of law and authorities relied upon by them within three weeks from today.
3. The matter to come up for final hearing in the week commencing from 23 October 2023.

(RAJESH S. PATIL, J.)