

HARSHADA H. SAWANT
(P.A.)

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.1012 OF 2024

Bajaj Allianz Life Insurance Co. Ltd.

.. Petitioner

Versus

Recent Insurance Services Ltd.

.. Respondent

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- Mr. Atharva Dandekar a/w. Ms. Deepa Mani and Ms. Khyati Bora i./by D M Legal Ventures, Advocates for Petitioner.
- Mr. Naresh Thacker a/w. Mr. Avinash Tripathi and Mr. Ashish R. i./by Zishan Quazi, Advocates for Respondent.

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CORAM : MILIND N. JADHAV, J.

DATE : MARCH 19, 2024

P.C.:

- 1.** Mentioned. Not on Board. Taken on Board.
- 2.** Heard Mr. Dandekar, learned Advocate for Petitioner and Mr. Thacker, learned Advocate for Respondent.
- 3.** Perused the praecipe dated 19.03.2024 and the order dated 04.01.2024 passed by this Court.
- 4.** Present Writ Petition was heard on 04.01.2024 and the impugned action *qua* attachment warrant came to be stayed on the Petitioner depositing amount of Rs.2 Crores with the Trial Court.
- 5.** Mr. Dandekar and Mr. Thacker, both the Advocates appearing for the respective parties inform me that the said order is complied with. The necessity to move the Petition today is arisen

because according to the Petitioner, pursuant to the deposit of the said amount an Application for withdrawal was made by the Decree Holder seeking withdrawal of the deposited amount before the learned Trial Court in Darkhast No.2929 of 2021.

6. Mr. Dandekar being aggrieved with allowing withdrawal of the said amount has urgently moved the Court for seeking orders. Mr. Thacker appears for the Respondent. Both the learned Advocates are *ad-idem* that the substantive challenge to the Award under Section 34 of the Arbitration and Conciliation Act, 1996 (for short '**the said Act**') is pending in Miscellaneous Application No.141 of 2022 before the District Judge, Pune.

7. It would therefore be in interest of justice as also shall enure to the benefit of both sides if appropriate directions are passed to dispose of the proceeding under Section 34 of the said Act as expeditiously as possible by giving appropriate directions.

8. In view of the above, following directions are given to the learned Trial Court seized with the hearing of Miscellaneous Application No.141 of 2022. I am informed that Darkhast proceedings are also heard by the same Court incidentally. Both parties, agree to the following directions being passed:-

- (i) Learned District Judge, Pune shall determine, adjudicate and decide Miscellaneous Application

No.141 of 2022 within a period of four weeks from today and endeavour to pass a reasoned judgment / order therein within a period of two weeks thereafter. No extension of time shall be given since the parties have assured the Court that they shall not take any unnecessary adjournments and shall abide by the dates of hearing as decided by the learned Court;

- (ii) The order of withdrawal passed by the learned Executing Court in Darkhast No.2929 of 2021 dated 05.03.2024 is not disturbed by this Court and same shall remain as it is, with a caveat that the said order shall be implemented on determination of Application under Section 34 of the said Act in the event if the Applicant fails therein. Needless to state that in such an event, the Respondent shall be entitled to pursue Execution proceedings in accordance with law for seeking interest;
- (iii) It is clarified that in the event if Applicant fails in the Application under Section 34 of the said Act, the Respondent shall be entitled to withdraw the

amount deposited by the Petitioner immediately within a period of one week thereafter and also any further amount that would be directed to be deposited thereafter. In that event, six weeks moratorium on withdrawal on the Respondent granted by this Court in this order shall not stand extended at all;

(iv) In the event if the Applicant in Miscellaneous Application No.141 of 2021 succeeds, then the order dated 05.03.2024 shall automatically stand set aside. In that event if any Application is made for withdrawal by the Applicant, the same shall be allowed but strictly in accordance with law by the learned Trial Court;

(v) It is clarified that this Court has not expressed any opinion on the merits of the matter and therefore the learned Trial Court while determining Miscellaneous Application No.141 of 2021 shall do so strictly on merits of the matter without being influenced by any of the observations and findings as they are *prima facie* in nature and made at an interlocutory stage;

(vi) All contentions of both parties are expressly kept open including, if any interlocutory Applications are filed by the parties, the same shall be disposed of together by the learned Trial Court while hearing Miscellaneous Application No.141 of 2022; and

(vii) Parties shall appear before the learned District Judge, Pune seized with the hearing of Miscellaneous Application No.141 of 2022 on 20.03.2024 i.e. tomorrow at 10.30 a.m. alongwith an authenticated copy of this order. All parties are directed to act on a server copy of this order.

9. With the above directions, Writ Petition No.1012 of 2024 being filed for invoking the extraordinary jurisdiction of this Court stands disposed.

H. H. SAWANT

[MILIND N. JADHAV, J.]

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Date: 2024.03.19
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