

HARSHADA H. SAWANT
(P.A.)

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.1764 OF 2024

Madhumati Manojkumar Kheradkar

.. Petitioner

Versus

The Competent Authority and Anr.

.. Respondents

-
• Mr. Umesh R. Mankapur, Advocate for Petitioner.
.....

CORAM : MILIND N. JADHAV, J.

DATE : APRIL 19, 2024

P.C.:

1. Mentioned. Not on Board. Taken on Board.
2. Heard Mr. Mankapur, learned Advocate for Petitioner.
3. Perused the praecipe dated 19.04.2024 and the Writ Petition.
4. By virtue of the impugned order dated 05.09.2023, the learned District Court in Appeal against Arbitration Award declared under the National Highways Act seeking enhancement of compensation rather determination of compensation has directed the Writ Petitioners to pay *ad valorem* Court fees on their claim amount.
5. By virtue of several decisions of this Court and more specifically in the case of **Saraswat Co-operative Bank Ltd. V/s. Fariruddin Quereshi N. and Others¹**, the issue raised in the Petition is

¹ (2012) 1 Bom CR 902.

no longer *res-integra*. It is rather settled law that no Court fee is payable if there is challenge to the finding given in the award, unless it is subject to grant of any amount.

6. Here is a case of Petitioner's claiming enhanced compensation. It is seen that under Schedule I Article 3A of the Court Fees Act, 1959 one half of the *ad valorem* fee on the amount or value of the award is sought to be set aside or modified. *Prima facie*, the impugned order dated 05.09.2023 is not sustainable.

7. An arguable case has been made out by Mr. Mankapur for issuance of notice to Respondents.

8. Hence, issue notice to the Respondents. Humdast permitted. In addition to Court's notice, Petitioner is directed to serve the Respondents a copy of this order and copy of the Writ Petition and inform them about the next date of hearing by any permissible mode of service and file appropriate affidavit of service with tangible proof thereof. Respondents are directed to file Affidavit-in-Reply to the Writ Petition on or before the next date.

9. Both Respondents i.e. Competent Authority and the National Highways Authority of India are directed to give instructions to their Advocates to appear on the next adjourned date.

10. It is clarified that if Respondents are served and do not

remain present this Court shall not await their presence and determine the Writ Petition strictly in accordance with law.

11. Stand over to **03rd May, 2024.**

H. H. SAWANT

[MILIND N. JADHAV, J.]

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