



Order below Exh.78 in
Special Darkhast No.30/2019

(M/s. C.R. Constructions etc. Vs. Maharashtra Jeevan Pradhikaran etc.)

(1). Perused the application, say of other side, heard learned counsel J.D. and D.H. in person at length. Gone through the whole record carefully.

(2). In short, it is the assertion of J.Ds' in this application that an appeal has been preferred against Judgment in R.C.S.No.32/2018 before the Hon'ble High Court, Mumbai vide Second Appeal No.149/2021. The said appeal is still pending. There was an order of stay of Hon'ble High court on 07/04/2021, to this Darkhast. As per order of Hon'ble High Court, Mumbai J.D's have furnished a Bank Guarantee to the tune of Rs.24,06,100/- within time. Hon'ble High Court, Mumbai in it's order has stated that "J.Ds' to furnish a Bank Guarantee of Rs.24,06,100/- within 8 weeks in trial Court and if J.Ds' do not furnish it, then the Second Appeal would be dismissed automatically and stay would be vacated", so there is no question of vacating the stay. After furnishing Bank Guarantee by J.Ds' as per order of Hon'ble High Court, Mumbai, this Darkhast is stayed. There will be injustice on J.Ds' if there will be attachment of Bank accounts of J.Ds' even on furnishing Bank Guarantee by J.Ds'.

(3). It is further assertion of J.Ds' that the accounts mentioned in the order of Exh.33 are the accounts of daily transactions of J.Ds'. The grant in it is public grant. The J.Ds' have given its descriptions in list 1 to 5 annexed with this application, that has to be considered in the interest of public. Account no.1 is in respect of supply of water in

rural area, account no.2 is saving collection (Revenue), account no.3 is saving tax of local self Government, account no.4 is MP, MLA Funds and development and account no.5 is in respect of electricity bills, chemical etc. The J.Ds' required some time to seek further orders from the Hon'ble High Court, Mumbai, if the Bank accounts would be attached as per order below Exh.33, there will be impact on daily affairs of J.Ds', which will affect all rural area, so order below Exh.33 is necessary to be stay/call back. The J.Ds' prayed to stay and call back the order below Exh.33 as to the attachment of bank accounts of J.Ds'.

(4). D.H. filed his say to this application at Exh.80 and strongly objected to this application. He stated in his say that the stay granted by Hon'ble High Court, Mumbai was interim and it came to end on 30/06/2021. Four months are elapsed but J.Ds' have not turned towards Hon'ble High Court, Mumbai. For what purpose the J.Ds' use the accounts attached under order below Exh.33, is their internal question, due to the said reason attachment cannot be called back. If the J.Ds' deposits the decretal amount there will not be necessity of attachment of the accounts. He prayed to reject the application.

(5). On perusal of order of Hon'ble High Court, Mumbai in Second Appeal No.149/2021 dated 7th April, 2021 the following words are mentioned -

“The execution of the impugned judgment is stayed till the next date of hearing”.

Further the following words are in the said order.

“Stand over to 30/06/2021”.

The above order implies that, the next date of hearing means the next date of hearing before the Hon'ble High Court, Mumbai

in Second Appeal No.149/2021, that means the next date of hearing before the Hon'ble High Court, Mumbai was 30/06/2021 and the stay was only up to 30/06/2021. In the said order Hon'ble High Court, Mumbai has used the words “stand over to 30/06/2021”. Therefore, the submission and interpretation of learned counsel for J.Ds' that, there was stay till the date of commencement of hearing of Second Appeal No.149/2021, is not acceptable and sustainable. It was necessary on the part of J.Ds' to get extend the stay order on 30/06/2021 from the Hon'ble High Court, Mumbai.

(6). This Court has passed the order below Exh.33 on 06/01/2022, there was an ampler period towards J.Ds' to challenge the order below Exh.33 and bring stay from Hon'ble High Court, Mumbai. As there was no stay from the Hon'ble High Court, Mumbai on the date of passing order below Exh.33, therefore the order below Exh.33 cannot be stayed or called back. Hence, application deserves to be rejected. So, I proceed to pass the following order.

ORDER

1. Application is hereby rejected.
2. No order as to costs.

Sangli
Date : 02/03/2022.

(L.D.Huli)
Civil Judge Sr.Dn., Sangli.

CERTIFICATE

I affirm that, the contents of this P.D.F. file are same,
word to word as per the original order.

Name of Stenographer : G.S.Parve

Court : Civil Judge Sr.Dn., Sangli

Date : 02/03/2022

Signed by the Presiding Officer : 02/03/2022
on

Uploaded on : 03/03/2022