

ORDER BELOW THE APPLICATION FOR PAYMENT OF AMOUNT AS PER DIRECTION OF HON'BLE HIGH COURT IN CIVIL APPLICATION NO.217/2015 IN FIRST APPEAL NO.36617/2014 DT. 30/01/2015 IN M.A.C.P.(R) NO.27/2014.

Heard the Learned Advocates for both sides. The Ld. Advocate for applicant submits that Award for payment of amount of Rs.33,34,375/- has been passed by this Tribunal. Against the said order, the respondent MiscNo.2 had approached to the Hon'ble High court and filed first appeal and moved application for stay of the execution. However, the Hon'ble High court has passed conditional order as below.

“ E) Effect and implementation of impugned Award dated 6th May, 2014 passed by Motor Accident Claim Tribunal, Satara in Motor Accident Claim Petition No.3/2011 is stayed till next date on the condition that applicant to deposit entire decretal amount with interest and cost in Tribunal within six weeks from today failing which ad interim shall stand vacated without referring back to the Court.”

2- The Ld. Advocate for the applicant submits that the respondent No.2 had not deposited the amount of award within the period of six weeks as directed by the Hon'ble High court . Therefore, stay has been automatically vacated and therefore amount deposited be paid to the applicants.

3- The Ld. Counsel for the respondent no.2 submits that time

of six weeks were given from the date of order. They could not get certified copy of the judgment till 9/2/2015. As they got it on 9/2/2015, they have deposited the amount within six weeks. Therefore, whole amount may not be paid but only 50 % amount as directed by the Hon'ble High court be paid to the appMACTNO.3.2011 (h.c.) Exhlicants.

4- I have gone through the order of Hon'ble High court. It clearly seems that Hon'ble High court has been pleased to pass stay order on condition that the respondent No.2 should deposit entire amount along with interest within 6 weeks from the date of order i.e. 30/01/2015, failing which interim order shall stand vacated without referring that to the court.

5- Admittedly, order has been passed by the Hon'ble High court on 30/01/2015. The amount has been deposited by the respondent No.2 on 21/03/2015 which shows that the respondent No.2 has not deposited the amount within period of six weeks from 30/01/2015 . Therefore, in view of order of Hon'ble High court, stay stands vacated.

6- No any further stay order has been obtained by the respondent No.2 from the Hon'ble High court. There is no stay order to the execution of the award. I find no any reason to withhold the payment of amount of award deposited by the respondent No.2. Thus, I pass the following order.

O R D E R

The Asst .Superintendent, District Court is directed to pay the amount of award to the applicants as per the award.

Satara

Dt.20/04/2015

(V.R.Kachare)

Member, M.A.C.T.,Satara

ORDER BELOW EXH. 7 IN M.C.A.NO.26/2015

Heard Ld. Advocate for the appellants. He submits that Gut No.355 was admeasuring 9 Ares. Out of it, he is having 2 1/4th Ares area. There was partition in 1990. The respondent is going to erect construction in the area came to the share of the appellants. He further submits that he has filed rough sketch along with the plaint and he has pointed out portion from said rough sketch in which area the respondent is attempting to erect construction. He further submits that the Ld. Trial court has rejected the application by holding that the appellants have prima faice failed to prove oral partition in 1990.

2- Since filing of the suit, there was stay for the construction. After passing the order below Exh.5, stay was granted by the trial court and it is in existence till today. The appellants have filed affidavit to that effect on record. He further submits that the respondent's case is that the suit property is joint property and denied the oral partition in 1990. The respondent has filed caveat application No.94/2015 in this case. It is appellants case that the respondent is going to erect construction over the suit property. Stay order is in existence till today. Moreover, respondent's own contention is that the suit property is joint property. In such circumstances, I am of the view that if any construction is erected over the suit property, it will create multiplicity of litigation. On the contrary, as already stay is in existence till today, I am of the view that stay needs to be continued till appearance of the respondent. I am of the view that this is a fit case in which exparte ad interim temporary injunction can be granted. Thus, I pass the following order.

ORDER

1. Ad interim exparte injunction is hereby granted till 6/04/2015.

2. The respondent is hereby temporarily restrained from making any construction over the suit property till 6/04/2015.
3. Issue show cause notice to the respondent as to why ad interim exparte temporary injunction should not be confirmed till final decision of this appeal. Notice r/o.6/4/2015.
4. Appellant is directed to do necessary compliance.
5. E.P. & S.B. allowed.
6. Notice be served on the respondent and his advocate who filed caveat on his behalf.

Satara
Dt.02/04/2015

(V.R.Kachare)
Ad hoc District Judge-1, Satara.

