



\$~15

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **MAC.APP. 581/2018**

HARYANA ROADWAYS, KARNAL DEPOT, HARYANA

..... Appellant

Through: Ms. Manisha Agarwal Narain, Advocate.

Versus

THE NEW INDIA ASSURANCE COMPANY

..... Respondent

Through: Mr. Pankaj Seth, Advocate.

CORAM:

HON'BLE MR. JUSTICE NAJMI WAZIRI

ORDER

% **30.05.2019**

CM APPL. 27323/2019 (by appellant for restoration of stay)

This application seeks restoration of stay of the impugned order dated 05.12.2017, which got vacated on account of default by the appellant.

On 03.07.2018, an interim stay was granted to the appellant, on its depositing the entire awarded amount within four weeks thereof. The money was not deposited. However, on 03.08.2018, the interim order was ordered to be continued. But again the money was not deposited and on 05.09.2018 time was again extended for second time. The order had made it clear that if the proof of deposit was not filed on time, the interim order of 03.07.2018 shall be deemed to be vacated. Till date the money has not been deposited. The interim order stands automatically vacated.

The learned counsel for the applicant submits that because of administrative constraints, there has been a delay in depositing of the monies. Nevertheless, a Demand Draft has been prepared and the requisite



amount will be deposited by tomorrow i.e. on 31.05.2019, subject to such terms as may be imposed by this Court.

Ordinarily, the appeal should have been dismissed for repeated non-compliance, perhaps with costs also. But the appellant is a government organization and there may have been some administrative difficulty, *albeit*, what was that administrative exigency or difficulty is not explained in the application. However, in the interest of justice, let the awarded amount be deposited. The interim order dated 03.07.2018 is restored, subject to Rs. 70,000/- as costs to be expended towards the plantation of 200 trees in the forest area as may be specified by the DCF (South). For this purpose, General Manager, Haryana Roadways, Karnal Depot, Haryana shall ensure that an officer, duly authorised, shall report to the Deputy Conservator of Forests (South) on 07.06.2019 at 10.00 am. The plantation exercise shall be completed by 30.06.2019. The plants shall be of deciduous indigenous variety with nursery age of three and a half years and have a height of at least six feet. The appellant and/or his Authorized Representative will take care of the plants for the next six months.

Depending upon the soil type and topography, the DCF (South) may consider the following types of trees for plantation:-

- | | |
|--|-------------------------------------|
| (i) Gular (Cluster Fig) | (ii) Kadamba (Burflower Tree) |
| (iii) Pilkhan (White Fig) | (iv) Jaamun (Black Plum) |
| (v) Bargad (Banyan Tree) | (vi) Mango |
| (vii) Amaltas (Golden Shower)
[Indian Laburnum] | (viii) Mahua (Butter Tree) |
| (ix) Putranjiva | (x) Badh |
| (xi) Sagwan (Teak Wood) | (xii) Safed Siris (Albizia Procera) |
| (xiii) Kala Siris | (xiv) Anjeer |
| (xv) Kathal- Jackfruit | (xvi) Palash |
| (xvii) Arni | (xviii) Bistendu |



(xix) Rohida

(xx) Medshingi

Photographs as well as videography of the site prior to plantation shall be taken by the appellant as well as by the aforesaid DCF. Photographs of the trees, that are to be planted, shall be taken assessing the minimum height of the plants i.e. 6 ft; the DCF shall satisfy himself that the trees to be planted shall have a nursery age of three and a half years, as mentioned in this order and various other orders prior to this one. After plantation, photographs, through a drone mounted camera, shall be taken by the DCF and annexed along with his Compliance Report to be filed on or before 08.07.2019. An affidavit of compliance shall also be filed by the appellant on or before 08.07.2019. Aerial pictures prior to and after the afore-directed plantation shall be obtained and shall be filed alongwith his affidavit. Similar quarterly updates shall be obtained by the said DCF to monitor and ensure the upkeep of the said plantation. A Report of the same shall be filed six months after the plantation alongwith fresh photographs to show the health/status of the plants. In case of default, the Registry shall list the case for directions.

Should the aforesaid plantation is not done, the interim order dated 03.07.2018 shall deem to have been vacated.

A copy of this order be given *dasti* to the learned counsel for the parties under the signature of the Court Master.

NAJMI WAZIRI, J.

MAY 30, 2019

RW