

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.1872 OF 2023

State of Maharashtra and Ors. .. Petitioners
Versus
The New India Assurance Co. Ltd. .. Respondent

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- Ms. M. S. Bane, AGP for State - Petitioner
 - Mr. V. Y. Sanglikar for Respondent No.1

CORAM : MILIND N. JADHAV, J.

DATE : FEBRUARY 13, 2023

P.C.:

- 1.** Heard Ms. Bane, learned AGP for State, and Mr. Sanglikar, learned Advocate for Respondent No.1.
- 2.** Taken on board at 04.30 p.m. as mentioned out of turn since the Board is being discharged at 04.30 p.m.
- 3.** In this case on 30.01.2023 this Court passed order staying all proceedings, *inter alia*, pertaining to eviction of the Petitioners. It needs to be mentioned that the Petitioners are the State of Maharashtra and Controller of Accommodation.
- 4.** Today due to paucity of time since matter could not reach Mr. Sanglikar requested to take it up for hearing and sought urgent relief.
- 5.** Mr. Sanglikar would submit that undoubtedly a substantive challenge has been filed by virtue of the present Writ Petition against Appellate Court's order. However it needs to be considered that there is also an order for payment of damages passed under Section 7 which has been upheld under Section 9 to the tune of Rs.10.7 Crores without

interest against the Petitioners.

6. This Court expects all litigants and more specifically Advocates and learned AGP's to be honest and sincere when they make urgent applications without giving notice to the other side. The order dated 30.01.2023 is one such order which has been passed during mentioning of the matter during the morning session when mentioning is permitted. It could had been prudent on the part of the learned AGP to have informed the Court about the order of damages. This Court clearly recollects that no such submissions were made or this Court was informed. This is clearly unfair to the Respondent.

7. In view of the above, Mrs. Bane, learned AGP is directed to take specific instructions from the Petitioner with respect to deposit of the damages amount as it is clearly seen from the order dated 30.01.2023 that the protection was granted only so far as eviction was concerned. Mrs. Bane would submit that she requires two weeks time to take appropriate instructions and make a statement. Deposit will have to be made by the Petitioners.

8. Be that as it may, if no specific instructions are informed to the Court regarding deposit of the damages amount, the order dated 30.01.2023 shall stand automatically vacated on the next date of listing.

9. Stand over to **27th February, 2023**. To be placed "First on Board".

[MILIND N. JADHAV, J.]