

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE SIDE JURISDICTION

CIVIL APPLICATION NO.1606 OF 2012
IN
FIRST APPEAL (ST) NO.1024 OF 2010

Smt. Rajakka Bajirao Magdum

...Applicant

V/s.

Sarjerao Pandurang Patil & Ors.

...Respondents

Mr. Nilesh Wable i/b. J. J. Bardeskar for the Applicant.

Mr. S. G. Thorat for Respondent No.1.

Mr. Rahul metha i/b. KMC Legal Venture for Respondent No.6.

CORAM: K.K. TATED, J.

DATED : FEBRUARY 4, 2015

P.C. :

1. Heard the learned counsel for the parties. This Application is preferred by original opponent No.3 for withdrawal of the amount deposited by the Appellant in First Appeal.

2. The learned counsel for the Applicant submits that the Tribunal, by its order dated 01/08/2009 held that the original claimants and Respondent No.3 are entitled to sum of Rs.5,69,709/- towards compensation with 9% p.a. interest. He submits that the original Appellant had filed Civil Application No.2851/2010 for stay of the operation and implementation of the impugned award dated 01/10/2009, which was allowed by this court (Coram : D. G. Karnik, J.) directing the Appellant to deposit the remaining 50% amount

awarded by the Tribunal, in the Tribunal. He submits that as such, the Appellant deposited the entire decretal amount in the Tribunal. This court, by order dated 08/02/2011 allowed the claimants to withdraw sum of Rs.4,50,000/- i.e. 50% of the amount awarded in their favour. The learned counsel for the Applicant original opponent No.3 submits that the Applicant may be allowed to withdraw the amount on the same footing as per order dated 08/02/2011 passed by this court in Civil Application No.2851/2010.

3. The learned counsel for the Appellant submits that they have no objection if the Applicant is allowed to withdraw the amount on the same footing as per order dated 08/02/2011 in Civil Application No.2851/2010.

4. Considering the submissions made by the learned counsel for the Applicant and as the original Appellant has no objection to partly allow the present Civil Application, following order is passed:

a) The Applicant original opponent No.3 Smt. Rajakka Bajirao Magdum is entitled to withdraw sum of Rs.65,000/- with accrued interest, if any, subject to filing an undertaking before the Tribunal for repayment thereof, if the Appellant succeeds in the appeal and/or so ordered by this court.

b) Civil application stands disposed off accordingly.

(K.K. TATED, J.)