IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION NO.1091 OF 2015
IN
FIRST APPEAL NO.2391 OF 2011

Aruna Ashok Kini and Ors. .. Applicants

vs.

Piyush Ramesh Popat and Ors. .. Respondents

Mr.Omkar Warange for the applicants

Mr.Sudam Kale i/b Mr.S.K.Shinde for the respondents

CORAM : K.K.TATED, J.
DATED : 17/06/2015

PC:

1 Heard the learned counsel for the parties.

2 This application is preferred by plaintiffs for withdrawal of the amount deposited by the respondent nos.1 to 4 in the Trial Court.

3 The learned counsel for the applicant submits that in the present proceeding applicant no.1 lost her husband due to electrocution. At the time of death, he was 53 years old and was working as Gram Sevak. He was getting salary of Rs.12,000/- p.m. Hence, they filed Special Civil Suit No.178 of 2006 for compensation of Rs.15.0 lacs. He submits that the Trial Court has decreed the suit for Rs.12.0 lacs with 6% interest p.a. He submits that applicant no.1, Aruna Ashok Kini does not have any source of income. Applicant no.1 has to maintain other

claimants. Hence, she has filed present Civil Application for withdrawal of the amount.

4 On the other hand, the learned counsel for the appellant vehemently opposed the present Civil Application. He submits that if entire amount is withdrawn by the applicants, nothing will survive in the present proceeding. He submits that if this court allows the applicant to withdraw the amount deposited by them in that case, the claimants be directed to provide solvent security to the satisfaction of the Trial Court.

5 Considering the submissions made by the learned counsel for the applicant and the averments made in Civil Application, I am satisfied that at present, the applicant has made out a case for allowing them to withdraw some amount without furnishing any security. Hence, following order:

a) Applicant nos.1 to 5 are entitled to withdraw $1/10^{th}$ each without furnishing solvent security but subject to outcome of the present First Appeal.

b) Tribunal is directed to invest remaining amount in fixed deposit of any nationalised bank initially for a period of one year and same be continued till the hearing and final disposal of the First Appeal.

c) Civil Application is disposed of accordingly.

(K.K.TATED, J.)