

Sequeira

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

***CIVIL APPLICATION NO. 1871 OF 2014.
IN
WRIT PETITION NO. 8390 OF 2009***

Mr. Deepak Shiv Kumar Bahry. .. Applicant

Vs.

M/s Heart & Soul Entertainment Ltd. .. Respondent.

Mr. Rajesh Khobragade i/b M/s Jayakar & Partners, for the Applicant.

Mr. Yasin Mohammed, Director of Heart & Soul Ent. Ltd., Respondent present in Court.

***CORAM: N.M. Jamdar, J.
Saturday 18 April, 2015***

PC :

By this Application, the Applicant seeks to withdraw the amount deposited in the Court, by the Respondent herein. Respondent appearing in person opposes he states that the Application cannot be taken out again having been taken out once. He submits that though the amount has been deposited in the Court, he has certain other claims against the Applicant.

2 The learned counsel for the Applicant, has drawn my attention to the order passed by this Court dated 21 March 2013 in Civil Application No. 623 of 2013 wherein similar objection was raised by the Respondent. Court has noted that the Respondent had argued this point at considerable length. Court has specifically

recorded that there is absolutely no substance in the Respondent's objection to the application of withdrawal. It is also recorded that the adjustment which is claimed by the Respondent pertains to arbitration proceedings wherein the Respondent can claim appropriate relief.

3 In view of the specific clarification issued by this Court on 21 March 2013 the objection raised by the Respondent cannot be entertained. The time sought it appears is to delay the withdrawal of the amount. However, to protect the interest of the Respondent, it is directed that the withdrawal of the amount by the Applicant would be subject to further orders that may be passed in the Writ petition. The Civil Application is accordingly allowed in terms of prayer clause (a).

4 So that this issue does not arise again and again, it is directed that the Respondent shall deposit the amount as directed earlier in this Court and the Applicant will be entitled to withdraw the same henceforth, subject to the above clarification.

(N.M.Jamdar, J.)