

FARAD CONTINUATION SHEET
IN THE HIGH COURT OF JUDICATURE AT BOMBAY.
CIVIL APPELLATE SIDE JURISDICTION.

CIVIL APPLICATION NO.3536 OF 2014
IN
FIRST APPEAL NO.929 OF 2012

Office Notes, Office Memoranda of Coram, Appearances, court's orders or directions and Registrar's orders	Court's or Judge's orders
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Mrs. Anita G. Bhaktwani for the Applicant
Mr. Bhushan Deshmukh i/b. Uday Warunjikar for the Respondent.

CORAM : K. K. TATED, J.
DATE : MARCH 19, 2015

P.C.:

1. Heard. This Application is preferred for withdrawal of the sum of Rs.1 lac deposited by the Appellant original Defendant pursuant to the impugned order dated 13/03/2013 passed by this court (Coram : A. H. Joshi, J.) in Civil Application No.1895/2012.

2. The learned counsel for the Applicant submits that as per the order dated 13/03/2013, this court directed the Appellant to deposit Rs.1 lac p.a. before 15th March of each year along with arrears from the date of decree. She submits that by the said order, this court also granted a liberty to the Applicant to prefer an appropriate

Application for withdrawal of the amount. She submits that earlier the Applicant preferred Civil Application No.4547/2013 for withdrawal of the amount which was allowed by this court (Coram : Mrs. Mridula Bhatkar, J.) on 23/12/2013 allowing the Applicant to withdraw the amount on an undertaking, subject to outcome of the appeal. She submits that on same terms and conditions, this court be pleased to allow the Civil Application.

3. The learned counsel for the Appellant vehemently opposed the Civil Application. He submits that the Applicant has already withdrawn the amount deposited by them earlier. Hence, there is no question of granting any liberty to the Applicant to withdraw further amount. Hence, there is no substance in the Civil Application. Same be dismissed with costs.

4. In the present proceedings, this court by order dated 13/03/2013 directed the Appellant to deposit Rs.1 lac p.a. on or before 15th March of each year and also granted liberty to the Applicant to prefer an appropriate Application for withdrawal of the amount. It is to be noted that earlier vide order dated 23/12/2013 in Civil Application No.4547/2013 the Applicant was allowed to withdraw the amount.

5. Considering the submissions made by the learned counsel for the Applicant, order dated 13/03/2013 and the order dated 23/12/2013, I am satisfied that the Applicant has made out a case for allowing the present Civil Application.

6. Hence, the following order:

A) The Applicant is permitted to withdraw sum of Rs.1 lac with accrued interest, if any, deposited by the Appellant in the court of Civil Judge, Senior Division, Thane on an undertaking and subject to outcome of the present appeal.

B) Civil Application stands disposed off accordingly.

C) Liberty granted to the Applicant to file an appropriate Application for withdrawal of the further amount, if they so desire, which will be decided on its own merits.

JUDGE