

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
CIVIL APPLICATION NO.2909 OF 2015
IN
WRIT PETITION NO. 644 OF 2010**

S. P. Agarwal **..Applicant**

In the matter of

**Gindly Gases & Petrochemical
Pvt Ltd represented through
Shri Maulik Vyas
Vs.**

..Petitioner

S. P. Agarwal & Ors.

..Respondents

**Ms Neeta Karnik for the Applicant
Mr. Sagar Joshi for the Respondent No.1**

**CORAM : R. M. SAVANT, J.
DATE : 27th OCTOBER, 2015**

P.C.

1 The above Civil Application has been filed for the following relief:

(a) This Hon'ble court be pleased to direct the court Registry to release the entire amount of interest accrued upon the 50% decretal amount invested in Fixed Deposit, in favour of the Applicant.

2 The said relief has its basis in the order dated 8-3-2011 passed in the above Petition by which order the Applicant herein who was the Respondent No.1 in the original Petition was permitted to withdraw 50% of the decretal amount on furnishing an undertaking to this Court and the balance 50% was directed to be invested in a Fixed Deposit of a nationalised Bank. The above Petition came to be dismissed by a Learned Single Judge of this Court by judgment and order dated 16-4-2015. However, though at the time of admission of the Writ Petition the Applicant was permitted to withdraw 50% amount which was invested in a Fixed Deposit. The final order does not contain any direction in so far as the disbursement of the interest accrued on the said amount of 50% is concerned.

3 In view of the fact that the Applicant is now entitled to the entire decretal amount on the dismissal of the Petition and since 50% of the amount was directed to be deposited in a Fixed Deposit of a nationalised bank pending the above Petition, the Applicant would undoubtedly be entitled to the interest accrued if any on the said amount of 50%.

4 The above Civil Application was on board on 20-10-2015 when at the request of Mr. S. M. Oak who was appearing for the original Petitioner i.e. the Respondent No.1 herein, was adjourned for today so as to enable him to seek instructions from his clients. The Learned Counsel Mr. Sagar Joshi who

appears for the Respondent No.1 states that he is bereft of any instructions. For the reasons stated above, the above Civil Application would have to be allowed and is accordingly made absolute in terms of prayer clause (a). Resultantly the Applicant would be entitled to the interest if any which has accrued on the amount of 50% which was lying in deposit in a nationalised bank. The Civil Application is accordingly disposed of.

[R.M.SAVANT, J]