

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
CIVIL APPLICATION NO.146 OF 2016
IN
WRIT PETITION NO. 3082 OF 2001**

**Martu Purshottam Nayak (deceased)
through LRS**

..Applicants

Vs.

Aviva Abraham Benjamin & Ors.

..Respondents

Mr. S. S. Kanetkar for the Applicants

Mr. N. R. Bubna for the Respondents

**CORAM : R. M. SAVANT, J.
DATE : 17th FEBRUARY, 2016**

P.C.

1 The above Civil Application has been filed by the original Petitioners / Plaintiffs for being permitted to withdraw the interest which has accumulated on the amount of Rs.4,20,000/- which was deposited in this court by the Respondents herein pursuant to the order dated 7-9-2007. However in terms of the time frame which was later on stipulated by the Division Bench of this Court in LPA No.229 of 2007 which time frame to deposit was extended by a period of two months from 7-3-2011. The earlier Civil Application filed by the Petitioner was for withdrawal of the principal amount being Civil Application No.2725 of 2011, came to be allowed by a Learned Single Judge of this Court R.V. More, J. by order dated 14-8-2012. However, the withdrawal permitted was only of the principal amount and there were no directions as

regards withdrawal of the interest. Hence the instant Civil Application has been filed. It seems that the said amount was lying in deposit from 15-4-2011 till 18-4-2013, but it seems that the interest which was accrued was also invested by the registry in a fixed deposit. In view of the fact that the Applicants have been allowed to withdraw the principal amount, the logical sequitur to the same would be that they would be entitled to interest also. The Learned Counsel for the Respondent Mr. Bubna fairly concedes that though an affidavit in reply has been filed this Court may pass appropriate orders.

2 In my view, for the reasons above mentioned, the Civil Application would have to be allowed and is accordingly made absolute in terms of prayer clause (a). The Civil Application is accordingly disposed of.

[R.M.SAVANT, J]