

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

**CIVIL APPLICATION (ST.) NO.25335 OF 2016
IN
SECOND APPEAL NO.229 OF 1993**

Bhalchandra Ganpat Malode (since deceased)

through his legal heirs

1(a) Yamunabai Popat Malode & Ors.

.. Applicants

Vs.

Ganpat Khanderao Malode (since deceased)

through his legal heirs

1(a) Smt.Chandrabai Ganpat Malode & Ors.

.. Respondents

Mr.P.J. Thorat for Applicants.

Mr.S.M. Railkar for Respondents.

CORAM : R.D. DHANUKA, J.

DATE : 23rd September 2016

P.C.

. By this civil application, the applicant no.2 seeks an order and direction regarding withdrawal of the amount of Rs.21,89,862/- deposited by the applicants in this Court on 10th July 2012 in pursuance of the order dated 26th April 2012 passed by this Court in Civil Application No.1079 of 2011 in Second Appeal No.229 of 1993.

2. Mr.Thorat, learned counsel appearing for the applicants invited my attention to the order passed by this Court on 26th April 2012 in Civil Application No.1079 of 2011 and more particularly paragraphs 7 and 8. This Court has while disposing of the said civil application made it clear that the disbursement of the said amount, with accrued interest, would be contingent on the result of the second appeal.

My attention is also invited to the order and judgment dated 17th June 2016 passed by this Court in Second Appeal No.229 of 1993 thereby dismissing the second appeal filed by the original appellants. He submits that in view of the dismissal of the second appeal and in view of the findings recorded by this Court in paragraph 14 of the said order and judgment, the applicant no.2 be permitted to withdraw the amount of Rs.21,89,862/- deposited by the applicants in this Court on 10th July 2012.

3. I have heard the learned counsel for the applicants and have perused the order passed by this Court. I am of the view that the applicant no.2 be permitted to withdraw the said amount as prayed. For the reasons recorded in the civil application, civil application is made absolute in terms of prayer clause (a). No order as to costs. Office is directed to act on the authenticated copy of this order.

R.D. DHANUKA, J.