IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION NO.366 OF 2016

IN

FIRST APPEAL NO.933 OF 2016

Maharashtra Apex Corporation Ltd. .. **Applicant/Appellant**

Versus

Central Bank of India and another .. **Respondents**

Mr. Shardul Singh a/w Mr. N. B. Amin i/by B. Amin & Co. for the Applicant/Appellant.

Mr. V. K. Nair for the Respondent No.1.

CORAM : R.M. SAVANT, J.
DATE : 1st AUGUST 2016

P.C.

1 The above Civil Application has been filed by the Applicant/ Appellant for the following relief :-

> "(a) That pending the hearing and final disposal of the First Appeal this Hon'ble Court be pleased (i) to order Respondent No.1 to pay to the Registrar, Bombay City Civil Court, the amount currently lying with Respondent No.1 under the said Fixed Deposit which is to mature on 25th February 2017 for Rs.42,94,567 and (ii) to permit the Applicants to withdraw the amount from the Registrar, Bombay City Civil Court, after the same are received from Respondent No.1 in compliance of prayers (a)(i) above;"

The above Appeal has been filed by the Appellant/original Plaintiff on the ground that the Trial Court has denied interest to the Appellant on the principal amount of Rs.25,00,000/-. The cause for filing the suit in question was the fact that the banker's cheque was issued in favour of the Appellant was not permitted to be encashed in view of the instructions of the Respondent No.2. The Trial Court had decreed the suit in the sum of the principal amount of Rs.25,00,000/- but has not granted interest. By an interim order passed on 17.04.2009 whilst the suit was pending in this Court a Learned Single Judge of this Court (Dr. D. Y. Chandrachud, J as his Lordship then was) has directed the Respondent No.1 herein who was the Defendant No.1 to invest the amount of the banker's cheque bearing No.357977 dated 19.01.1998 in a fixed deposit of the first Defendant itself, it was further directed that the amount including the agreed interest shall abide by the result of the suit. The said amount of Rs.25,00,000/- was accordingly invested in a fixed deposit pursuant to the said order dated 17.04.2009. As indicated above, the dispute that is raised by the Appellant is its entitlement to claim interest from 21.01.1998 when it attempted to encash the banker's cheque till 17.04.2009 when the Respondent No.1 Central Bank of India was directed to invest the amount in a fixed deposit by the order dated 19.01.1998. It is pertinent to note that the Respondent No.1 has not filed any Appeal challenging the decree. Hence, in so far as the principal amount is concerned i.e. the amount of

Rs.25,00,000/- there can be no dispute about the same. Though the Appellant has sought interim reliefs to the extent mentioned in prayer clause (a) which has been adverted to hereinabove, in my view, it would be just and proper to mould the interim reliefs in the following manner :-

I) The Appellant/original Plaintiff is permitted to withdraw the amount of Rs.25,00,000/- which is the principal amount. The said withdrawal would be on the basis that the Respondent No.1 is directed to pay/deposit with the Registrar, Bombay City Civil Court the said amount of Rs.25,00,000/- with interest accrued thereon. The same would have to be done by terminating the fixed deposit which is to mature on 26.02.2017.

II) Out of the said amount, the Appellant would be entitled to withdraw an amount of Rs.25,00,000/- without any security as there is no dispute about the said amount.

III) In so far as the interest which has accrued on the said amount after its investment, the Appellant is permitted to withdraw the said interest by furnishing security to the satisfaction of the Registrar of the City Civil Court. The

Respondent No.1 would be heard prior to the acceptance of such security.

2 With the aforesaid directions, the Civil Application is disposed of.

3 The hearing of the First Appeal is expedited. Private paper book to be filed within six months from date.

[R.M. SAVANT, J]