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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

**CIVIL APPLICATION NO.4477 OF 2017
IN
CIVIL APPLICATION NO.4704 OF 2016
IN
ARBITRATION APPEAL (ST.) NO.9538 OF 2016**

M/s Chowgule Real Estate &
Construction Co. Pvt. Ltd.,
Casa Del Sol,
Opp. Hotel Goa Marriott,
Miramar, Panaji, Goa-403001,
Through its Authorized Person

..APPLICANT
(Ori. Resp. in Appeal)

The Executive Engineer,
U/GMIDC, Aurangabad
Through Executive Engineer,
Majalgaon Canal Division No.7,
Gangakhed, Dist. Parbhani

..APPLICANT
(Ori. Appellant)

Mr G.K. Thigale, Advocate for applicant;
Mr B.R. Surwase , Advocate for respondent

CORAM : NITIN W. SAMBRE, J.

DATE : 30th October, 2017

ORAL ORDER:

By the present application, the applicant seeks permission to withdraw the entire decretal amount deposited in the Court, which includes interest accrued thereon.

2. The prayer is opposed by the learned Counsel appearing on behalf of the respondent-original appellant on the ground that in other similar matters, this Court has ordered the amount to be invested in fixed deposit

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with nationalized bank and what was permitted to be withdrawn is the interest accrued on the amount.

3. With a view to counter the aforesaid submission, Mr Thigale, learned Counsel appearing on behalf of the applicant submits that if the applicant is permitted to withdraw the entire amount, the applicant shall furnish bank guarantee for the entire amount.

4. The aforesaid statement is accepted as an undertaking. In view of such undertaking, Civil Application stands allowed. The applicant-plaintiff is permitted to withdraw the entire amount, subject to furnishing bank guarantee to the satisfaction of Registrar (Judicial). The bank guarantee should also include the interest to be accrued on the amount to be withdrawn by the applicant, at the same rate at which learned District Judge has awarded the interest, for future period of five years. Applicant-claimant shall also furnish an undertaking that if appeal is allowed, he shall within four weeks thereafter re-deposit the entire amount with interest at the rate of 10% per annum, to which the appellant will be entitled to.

(NITIN W. SAMBRE, J.)

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