

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

(1)

CA NO.14636/2016gr

**926 CIVIL APPLICATION NO. 14636 OF 2016
IN FAST/18039/2016**

WITH

CA/8562/2016 IN FAST/18039/2016

MAHADEVI ANKUSH KANTHE AND ORS
VERSUS
UNITED INDIA INSURANCE CO. LTD. AND ORS

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Advocate for Applicants : Mr.Kedar Balbhim R.
Mr. M.R.Deshmukh, Adv., h/f Mr. S.G. Chapalgaonkar, Adv., for R/1

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CORAM : P.R. BORA, J.

Dated: July 18, 2017

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PER COURT :-

1. Learned Counsel for the applicant in C.A.No.8562/2016, for condonation of delay, to take steps. S.O. four weeks.

2. Heard learned Counsel for the applicant and learned Counsel appearing for respondent Insurance Company on Application No.14636/2016 for withdrawal of amount.

3. Record reveals that the hearing of the present application was adjourned at least on two occasions, however, though time was sought by the Insurance Company to file reply, no such reply has been filed. Learned Counsel for the Insurance Company submitted that in the present matter and in some other

agp/-

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(2)

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matters, investigation is being carried out in which it is prima facie revealed that ante dated policies were issued and an attempt was made to play fraud on the Insurance Company. Learned Counsel submitted that now C.B.I. has stepped into the investigation and entire investigation is with the C.B.I. and all relevant documents are in the custody of C.B.I. officers. Learned Counsel, in such circumstances, submits that the Insurance Company is unable to file any specific reply based on the documents. Learned Counsel, therefore, prayed for passing appropriate orders.

4. In view of the facts as are revealed, it appears to me that it would be unjust and improper to permit the applicants to withdraw whole of the amount as has been deposited by the Insurance Company, however, at the same time it may also be unjust and improper to deny the applicants from withdrawing any part of the amount as has been deposited by the Insurance Company.

5. Considering the peculiar circumstances involved in the present case, it appears to me that if the applicants are, at present, permitted to withdraw 25 per cent of the deposited amount on submitting solvent surety / security in the like amount to the satisfaction of the Registrar (Judicial) of this Court, it would meet the ends of justice and it may provide some solace to the applicants. Hence, the following order:

agp/-

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
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(3)

CA NO.14636/2016gr

ORDER

1. The applicants are, at present, permitted to withdraw 25 per cent of the deposited amount on submitting solvent surety / security in the like amount to the satisfaction of the Registrar (Judicial) of this Court.

2. Balance amount be deposited in any nationalized Bank initially for a period of two years and, if required, for further period till disposal of the appeal.

Civil Application for withdrawal of amount stands disposed of accordingly.

(P.R. BORA, J.)

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