

Andreza

**IN THE HIGH COURT OF BOMBAY AT GOA**  
**MISC. CIVIL APPLICATION NO.637 OF 2014**  
**AND**  
**MISC CIVIL APPLICATION NO.475 OF 2016**  
**IN**  
**WRIT PETITION NO. 721 OF 2008**

Mr Rui A. E. Ferreira

... Applicant

V e r s u s

The Commissioner of Labour and  
Employment Government of Goa  
& anr.

... Respondents

Mr. V. Sardesai, Advocate for the Respondent No.1.

Mr. A. C. Carvalho, Advocate for the Respondent No.2.

**Coram:- NUTAN D. SARDESSAI, J.**

**Reserved for Order on : 2nd November 2017**  
**Order Pronounced on : 16th November 2017**

**ORDER**

The Petitioner-Applicant in person pressed for the grant of the application for the withdrawal of an amount of ₹8,07,642/- deposited in the Registry of this Court by the Respondent No.2 pursuant to the Order of this Court dated 10.02.2009 in the Writ petition No.721 of 2008. The applicant also sought for an early hearing of the Petition.

2. In MCA No.475 of 2016, the Respondent No.1 sought for the withdrawal of the amount deposited by them pursuant to the order of this Court dated 10.02.2009 and on the premise that the matter had travelled to the Hon'ble Supreme Court and that in the Judgment passed on 08.12.2016, the matter had attained a quietus on the observation of the Hon'ble Supreme Court that a lumpsum amount of ₹42,50,000/- was to be paid to the Applicant in full and final settlement of all his dues and that he would not be entitled to any other benefits in respect of the services rendered by him in the Respondent No.2-Bank. On that premise, the Bank sought for the refund of the amount earlier deposited by them in the amount of ₹8,07,642.99.

3. The Petitioner came to be heard in person who reiterated the contents of his application and otherwise submitted that a Recovery Certificate was issued by the Labour Commissioner who reviewed the same and without any powers to do so tantamounting to a blatant violation of the law. He was otherwise entitled for the withdrawal of the said amount as his wife was suffering from cancer and he was in

dire need of money to meet her treatment apart from the education of his children.

4. Shri A. Carvalho while opposing the application and canvassing for the refund of the said amount in his favour contended that on the final disposal of the application before the Hon'ble Apex Court and the deposit of an amount of ₹31,00,000/- approximately after deducting the tax at source, the Respondents were no longer liable to pay the amount to the Applicant and therefore he was not entitled to the withdrawal of the said amount deposited in the Court and quite on the contrary, they were entitled to its refund.

5. Be that as it may, the Applicant while opposing the application of the Respondent-Bank had taken a plea in his reply that allowing the Respondents to withdraw the amount deposited in Court would tantamount to a decision of the Petition itself without going into the merits of the case. Such being the position and as the issue is at large whether the Applicant is entitled to withdraw the said amount in view of the Judgment of the Hon'ble Apex Court and conversely whether the Respondents are entitled to the refund of the deposited

amount, that issue would be kept in abeyance pending the final hearing and disposal of the Writ Petition No.721 of 2008. However, considering the contention of the Petitioner and that he has a terminally ill wife depending on him, the hearing of the Petition is ordered to be expedited.

6. Both these applications stand disposed off accordingly with no orders as to costs.

**NUTAN D. SARDESSAI J.**