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

**CIVIL APPLICATION NO.1767 OF 2017
IN
WRIT PETITION NO.3268 OF 2013**

Uttam Nagorao Sawant ...Applicant

In the matter between

Bansilal Taparia & Anr. ...Petitioners

vs

Uttam Nagorao Sawant ...Respondent

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Mr. Amol Desai, i/b. Avinash K. Jalisatgi, for the Applicant.

Mr. Anukul Seth, i/b. Pooja V. Throat, for the Petitioners.

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CORAM : PRASANNA B. VARALE, J.

DATED: 12 SEPTEMBER, 2017

P.C. :

. Heard learned Counsel for the Applicant as well as for the Respondents in the Civil Application.

2. By way of the present application, the Applicant/Respondent is praying for withdrawal of the amount. Perusal of the record shows that by an order dated 25 April 2016, the Petitioners were directed to deposit an amount of Rs.2 lakhs within a stipulated period of four weeks. It was made clear that if the Petitioners fail to deposit the amount within stipulated period, the interim relief shall stand vacated without reference to this Court. This Court directed that if the compensation amount is deposited, it will be invested in a Nationalized Bank for an initial period of two years. Learned Counsel for the Applicant submits that the

Applicant is facing financial hardships as the award passed in favour of the Respondent is under challenge before this Court and an interim order is passed by this Court. He further submits that the Applicant is also facing the problems like his wife is suffering from ailment and his son is of marriageable age. Thus, learned Counsel for the Applicant submits that the Applicant is in dire need of finances. Learned Counsel thus prays for withdrawal of the amount deposited in this Court by the Petitioners. Learned Counsel for the Petitioners vehemently opposes the submission. Learned Counsel submits that this Court, by order dated 25 April 2016, directed the Registry to invest the amount in nationalized Bank. Learned Counsel for the Petitioners submits that if the amount is permitted to be withdrawn, and if the Petitioners succeed, there is hardly any chance to recover the amount withdrawn by the Respondent /Applicant. Though learned Counsel appearing for the Petitioners vehemently opposes the application, I am unable to accept the submission. The perusal of the record shows that though the Petitioners were directed to deposit the amount within stipulated period, the Petitioners again failed to deposit the amount within stipulated period and the amount was ultimately deposited in this Court after seeking time and after this Court imposed costs on the Petitioners. Considering the grounds raised in the application, in my opinion, the Applicant can be permitted to withdraw part of the amount. The Applicant is permitted to withdraw an amount of Rs.1 lakh, subject to filing an undertaking before Court within two weeks, if the amount of Rs.1 lakh is withdrawn by him. The application is disposed of in above terms.

(PRASANNA B. VARALE, J.)