

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

**CIVIL APPLICATION NO.229 OF 2017
IN
CIVIL REVISION APPLICATION NO.500 OF 2011**

**Shardaprasad S Sharma and anr. : Applicants/
Org.Respondent Nos.1 and 5.**

In the matter between

**Mrs.Homi Faredum Rabadi
(Deleted since deceased)**

Mrs.Shirin D/o Faredun Rabadi : Applicant.

Versus

Shardaprasad S. Sharma and ors. : Respondents.

Mr. Kiran Mishra i/by K P Tiwari & Co. for the Applicant.

Mr. Raj Patel i/by Ganesh & Co. for the Respondent-original Civil Revision Applicant.

CORAM : R. M. SAVANT, J

DATE : 01st September 2017

P.C. (In Chamber at 2.45 pm.)

1 The above Civil Application has been filed in the above Civil Revision Application for seeking an order or direction to transfer the amount of Rs.18,00,000/- (Rupees Eighteen lakhs only) together with interest accrued thereon. In the name of Mr. Ajay Sharadaprasad Sharma – the Respondent No.5 in his account in the Bank of India, Goregaon (East) Branch.

2 The above Civil Revision Application has been disposed of in terms of the Consent Terms dated 07/04/2017 which were filed by the parties.

3 The relief which is sought in the above Civil Application is on the basis that the amount of Rs.18,25,000/- (Rupees Eighteen Lakhs Twenty Five Thousand only) is lying in deposit in this Court. In the context of the relief sought in the above Civil Application Clause (5) of the Consent Terms is relevant and is reproduced herein under :-

“5 By consent of the parties, the said amount of Rs.18,00,000/- (Rupees Eighteen Lakh only) together with interest accrued thereon, which is credited to the account of the above Civil Revision Application, be paid over to the Respondent No.5.”

Hence reading of the said clause 5 discloses that the parties had agreed to the said amount of Rs.18,00,000/- (Rupees Eighteen Lakhs only) which was deposited by the Civil Revision Applicant Shirin Faredun Rabadi in this Court which was the accumulated amount on account of the deposit of Rs.25,000/- (Rupees Twenty Five Thousand only) per month made by the said Civil Revision Applicant Shirin Faredun Rabadi. It seems that by the time the Consent Terms were filed and the above Civil Revision Application was disposed of the amount which had accumulated was in the sum of Rs.18,25,000/- (Rupees Eighteen Lakhs Twenty Five Thousand only) and not Rs.18,00,000/- (Rupees Eighteen Lakhs only). However, in view of the fact that the Consent Terms only provides for payment of Rs.18,00,000/- (Rupees Eighteen Lakhs only) to the Respondent No.5, the order passed in the above Civil Revision Application on the basis of the Consent Terms could not be implemented.

4 The learned counsel appearing on behalf of the original Civil Revision Applicant Shri Raj M Patel on instructions states that the original Civil Revision Applicant has no objection if the entire amount lying in deposit in the above Civil Revision Application is permitted to be withdrawn by the Respondent No.5 which would be the principal amount as well as the interest if any accrued thereon.

5 In view of the said statement made by the learned counsel appearing for the original Civil Revision Applicant Shri Raj Patel, the above Civil Application is disposed of by directing the office to pay over to the Respondent No.5 the entire amount lying in deposit in the above Civil Revision Application as on date inclusive of the interest, if any, which may have accrued on the said amount to the Respondent No.5 on the authenticated copy of this Order being produced. The above Civil Application is accordingly disposed of.

[R.M.SAVANT, J]