

Santosh

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 4916 OF 2017**

Harish D Thakoor	...Petitioner
<i>Versus</i>	
Central Bank of India	...Respondent

Mr Agnel C, i/b Mulla & Mulla & Graigie Blunt & Caroe, for the
Petitioner.

Mr KK Jadhav, i/b JK Jadhav, for Respondent No.1.

CORAM: G.S. PATEL, J
DATED: 6th December 2017

PC:-

1. The bank agreed in writing by its reply of 7th June 2016 to release the amount of compensation deposited in the Small Causes Court to the Plaintiff. For reasons that I am unable to understand, despite this, the Appellate Bench declined to allow the application for withdrawal.
2. It is now submitted on behalf of the bank that amount deposited after that date should not be allowed to be withdrawn. The bank wishes to contest a substantive mesne profits application yet to be filed.
3. The withdrawal is permitted for all amounts deposited up to June 2016 but not beyond. For the remainder the Plaintiff may file a

substantive mesne profits determination application, and this will be decided on its own merits. I making it clear that any such mesne profits application to be filed and contested, because the Defendant bank has only recently had a change of heart, will not affect the amount allowed to be withdrawn. The submission for the bank is that the Petitioner-Plaintiff must be directed to provide an undertaking to bring back any differential amount with interest if the final rate of mesne profits is fixed lower than the interim compensation awarded. That submission is rejected. The interim compensation payable till June 2016 is to remain unaffected and cannot and will not be adjusted in the final determination of the mesne profits application. Subject to this, all other contentions as to the actual rate of mesne profits to be fixed from the period June 2016 onwards are left open.

(G. S. PATEL, J.)