

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

**CIVIL APPLICATION NO. 3280 OF 2017
IN
FIRST APPEAL NO. 475 OF 2017**

M/s.Brackshire Consultancy & Anr. ...Applicants

IN THE MATTER BETWEEN

ECOSENSE LABS (I) PVT. LTD. ...Appellant

Versus

M/s.Brackshire Consultancy & Anr. ...Respondents

.....

Mr.V.Y.Sanglikar for the Applicants.

Mr.Kishor Jain a/w. Priyal Chheda i/b. Ms.Divya D. Jain, Ms.
Shweta Jain for the Original Appellant in FA.

.....

**CORAM: MRS.MRIDULA BHATKAR, J.
DATED: NOVEMBER 28, 2017**

P.C. :

1. Learned counsel for the applicants/original plaintiffs has submitted that the Suit is decreed with costs. The suit was filed for recovery of money and the appellant/defendant was directed to pay to plaintiff no.2/ applicant no.2 a sum of Rs. 8,66,700/- i.e. the principal amount alongwith interest @9% p.a. He has further

submitted that the appellant/defendant has deposited Rs. 23,90,858/-, which inclusive the principal amount alongwith interest accrued thereon. He has further submitted that plaintiff no.2 is a decree holder and prosecuting the matter since 1998 and, therefore, he be allowed to withdraw the entire amount. He has further submitted that plaintiff no.2/applicant no.2 is ready to furnish bank guarantee of 50% of the amount.

2. Learned counsel for the appellant/defendant has submitted that the appellant is challenging the judgment and order of the trial Court, as the appellant has good case on merits. There is no guarantee if the amount is withdrawn by applicant no.2 and he failed to bring the said amount in future if the Appeal is allowed.

3. Perused the impugned order. Heard submissions. In view of the submissions and the facts of the case, applicant no. 2/ plaintiff no.2 is allowed to withdraw 50% of the amount deposited by the appellant/defendant on furnishing bank guarantee of the said amount within a period of four weeks from today. If the bank guarantee is furnished, then after withdrawal of 50% of the

amount, the remaining amount is to be invested in the fixed deposit in any nationalized bank.

4. With this, Civil Application is disposed of accordingly.

(MRIDULA BHATKAR, J.)