

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CIVIL APPLICATION NO. 8443 OF 2018
IN CA/2504/2018 IN AO/53/2017

FARZANABEGUM MOHAMMED SAYEED AND OTHERS
VERSUS
RANA TILAKRAJ BRIJLAL KHURANA AND OTHERS

...
Mr. H.I. Pathan, Advocate for applicants
Mr. S.S. Rathi, Advocate for non-applicant no.1
Mr. S.R. Bodade, Advocate for non-applicant no.3
Mr. S.S. Gangakhedkar, Advocate for non-applicant no.4
Mr. M.A. Deshmukh, Advocate h/f Mr. S.G. Chapalgaonkar, Advocate
for non-applicant no.5 and 6
...

CORAM : SUNIL P. DESHMUKH, J.
DATE : 07-09-2018

ORDER :

1. The application has been moved for modification of order dated 11-04-2018 passed by this court in civil application no. 2504 of 2018, since the same makes reference to withdrawal by applicant no. 7 along with applicants no. 1 and 8, as also directs investment of share of applicants no. 4 to 6 in fixed deposit receipts.

2. Learned counsel for the applicants points out that, as a matter of fact, applicant no.7 is no more. It can be easily borne out from the title clause of civil application no. 2504 of 2018. He submits that applicants no. 4 and 5 have been major. Yet, the order incorporates withdrawal by applicant no. 7 and investment of shares of applicants no.4 and 5 in fixed deposit receipts.

3. In the circumstances, there shall be rectification and modification in the order dated 11-04-2018 in civil application NO. 2504 of 2018, to the effect that instead of applicant no. 7, it should be legal heirs of applicant no.7. The figure '**7**', appearing in paragraph no. 4 after the words 'applicants no.1 and', shall be replaced by words and figures '**legal heirs of applicant no.7**' and the figures and words '**4 to 6**', shall be corrected by deleting figures and words '**4 to**' from the order wherever it appears and the figure '**6**', however, shall continue. Relevant paragraph no. 4, on correction will read as under and shall be deemed to be subsisting, as per modification under this order, since 11-04-2018, as paragraph no. 4,

" 4. Having regard to aforesaid, it would be expedient to allow applicants no. 1, legal heirs of applicant no. 7 and applicant no. 8 to withdraw the amount deposited by appellant in this court along with interest accrued thereon in the proportion of their apportionment and as referred to in the award subject to filing undertaking by applicants that the amount so withdrawn would be paid back / re-deposited by them in this court within a period of three months from date of decision in the appeal, if the same goes against the applicants. Undertaking to be filed within a period of three weeks from today. Amount in the share of applicant no. 6 be invested by applicant no. 1 in fixed deposit receipts of a nationalized bank and interest accrued thereon be expended on her. Copies of fixed deposit receipts be furnished to the court."

4. Learned counsel Mr. H. I. Pathan submits that applicant

no. 1 be authorized to withdraw the amount from this court as it is difficult to open joint account in the name of all applicants and that all applicants are ready and willing to authorize applicant no.1, to withdraw the amount. Such a request would better be made under a proper resort rather than in present application. Applicants may file appropriate application for withdrawal of amount by applicant No. 1, stating out circumstances to be considered on its merits.

5. With aforesaid modifications and directions, civil application is allowed and is disposed of with liberty as aforesaid.

Dinesh
Ramrao
Pawar

Digitally
signed by
Dinesh
Ramrao
Pawar
Date:
2018.09.19
09:55:06
+0530

drp

[SUNIL P. DESHMUKH]
JUDGE