

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY.
BENCH AT AURANGABAD.**

**37 CIVIL APPLICATION NO. 855 OF 2018
IN RC/919/2018**

MOHD. IMAMUL HAQ MAZHARULHAQ	..Applicant
<u>VERSUS</u>	
M/S SHIVA ENTERPRISES AND ORS.	..Respondents

...
Shri Saeed S. Shaikh, Advocate for the Applicant
Shri Amol Joshi, Advocate, h/f. Shri Rajendra Deshmukh,
Advocate for Respondents No.1 & 4

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CORAM : P.R. BORA, J.
Dated: JULY 09, 2018

PER COURT :

1. Heard the learned Counsel for the applicant and the learned Counsel for the respondent.
2. Vide order passed by this Court on 23rd April, 2007 the applicant was permitted to withdraw sum of Rs.12,83,027/- on certain conditions. Admittedly, that was the decretal amount of the decree passed in favour of the present applicant. The learned Counsel submitted that, at the relevant time, the interest accrued on the said amount was not directed to be paid to the present applicant and hence he has filed the present application seeking direction for payment of the said amount to the present applicant. I see no reason to disallow request so made.
3. The learned Counsel for the respondent submitted that, without prejudice to the rights of the respondents to agitate the appeal on merits the interest amount may be paid to

the applicant on the same terms and conditions, on which, the decretal amount was paid to the applicant.

4. The learned counsel for the applicant submitted that, the amount of interest may be released in favour of the applicant on condition of furnishing solvent surety in the like amount and the applicant may not be directed to furnish the Bank guarantee. I find the request so made worth considering.

5. In view of the submissions so made, the following order is passed.

ORDER

1. The amount of interest, if any, accrued on the amount of Rs.12,83,027/- till this date, is permitted to be withdrawn by the applicant on furnishing solvent surety to the satisfaction of the Registrar (Judicial) of this Court.

. The Civil Application stands disposed of accordingly.

(PR. BORA, J.)