

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
CIVIL APPLICATION NO. 699 OF 2018
IN
WRIT PETITION NO. 10560 OF 2016

**Babalal Kakade Nira Canal Co-operative
Kharedi Vikri Sangh Limited, Baramati** Applicant

IN THE MATTER BETWEEN

Surendra Gopal Kulkarni & Anr. Petitioners

VERSUS

**Assistant Registrar,
Co-operative Societies, Baramati & Ors.** Respondents

Mr.Sanjiv A. Sawant for the Applicant.

Ms.K.N.Solunke, A.G.P. for the State – Respondent no.1.

Mr.S.S.Kanetkar for the Respondent no.2.

CORAM : R.D. DHANUKA, J.

DATE : 14th JUNE, 2018

P.C.

Heard learned counsel appearing for the parties. The applicant has deposited a sum of Rs.95 lacs pursuant to the order dated 20th September,2016 passed by this court. Certain proceedings are pending between the applicant and the respondent no.3 before the District Court, Baramati i.e. Regular Civil Appeal No.117 of 2016. The applicants now seeks permission to withdraw Rs.95 lacs with liberty to deposit the said amount in the fixed deposit and to give security by way of the fixed deposit before the learned District Court, Baramati.

2. Insofar as prayer clause (b) is concerned, Mr.Sawant learned counsel for the applicant does not press this prayer in this civil

application and states that the same would be pressed before the District Court, Baramati in Regular Civil Appeal No.117 of 2016.

3. Mr.Kanetkar, learned counsel for the respondent no.2 states that his client has no objection if the petitioner is allowed to withdraw the said amount with a direction to keep the fixed deposit of the said amount before the learned District Court, Baramati in Regular Civil Appeal No.117 of 2016 without prejudice to the rights and contentions of his client in the pending revision application and on the condition that the applicant will not plead any equity insofar as revision application is concerned on account of the applicant depositing the said fixed deposit as and by way of security before the District Court, Baramati in the Regular Civil Appeal No.117 of 2016. Statement is accepted.

4. Civil application is made absolute in terms of prayer clause (a) subject to the rights and contentions of respondent no.2 as recorded aforesaid open. There shall be no order as to costs.

5. The Office is directed to permit the applicant to withdraw the said amount deposited with accrued interest if any paid up. It is made clear that the fixed deposit that would be kept as security by the applicant in the District Court, Baramati shall be also of the equivalent amount which is allowed to be withdrawn in favour of the applicant by this court. The fixed deposit shall be submitted to the District Court, Baramati within one week from the date of the withdrawal of the amount. The applicant will have to pay the differential amount payable if any as may be directed by the District Court or in any other

proceedings by a competent court.

6. Place the matter on board for compliance on **17th July, 2018.**

[R.D. DHANUKA, J.]