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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
LETTERS PATENT APPEAL NO.137 OF 2003
IN
WRIT PETITION NO.6231 OF 2003

NRC Limited ... Appellant
V/s.
Mr. Vijaykumar Laxman Kabir (deceased)
Through L.R.s
Shivprasad Vijaykumar Kabir and Anr. ... Respondents.

Mr. Piyush Shah a/w Mr. Vinod Tayade for the Appellant.
Ms. Gayatri Singh, Senior Advocate for the Respondents.

CORAM : A.S.OKA AND M.S. SONAK, JJ.

DATE : 30th AUGUST 2018.

P.C. :

1 This appeal has been admitted. While granting interim relief, a direction was issued by this Court to the appellant to deposit certain amounts. Certain amounts were deposited in the Court by the appellant. During the pendency of the appeal, the respondent who was the writ petitioner in the writ petition before the learned Single Judge expired. Earlier Shivprasad Kabir, the son of the deceased respondent was brought on record. Today, in terms of oral permission granted, an amendment has been carried out and one Prajakta Kapil Kulkarni, the daughter of the deceased respondent has been brought on record. There are affidavits separately filed by the said Shivprasad and said Prajakta stating that they are the only legal heirs and representatives of the deceased respondent

and their mother. They have stated that their mother pre-deceased father and their father expired on 12th August 2010. Death certificates of both father and mother have been annexed.

2 The learned counsel appearing for the appellant on oral instructions of Mr. Arun Jain, Managing Director of N.R.C states that the appellant has no objection for putting an end to the entire dispute by permitting the legal representatives of the original respondent to withdraw the entire amount deposited by the appellant which is lying deposited as of today and interest accrued thereon. On instructions of the said officer, he states that accordingly the appeal may be disposed of.

3 The learned senior counsel appearing for both the legal representatives states that both Shivprasad and Prajakta are present in the Court and they have agreed to equally share the amount lying deposited in this Court and the interest accrued thereon. They have no objection to dispose of the appeal accordingly. We accept the said statement.

4 In view of the aforesaid statement, we dispose of the appeal by passing the following order :-

ORDER

- (i) We accept the statements made on oath by the legal representatives of the respondents (Shivprasad and Prajakta) that they are the only legal representatives of their deceased father and mother;

- (ii) It will be open for the respondents to withdraw the entire amount lying in this Court together with interest accrued thereon. Accordingly, we direct the Registry to pay the amount lying deposited with interest accrued thereon to both of them in equal shares;
- (iii) We make it clear that in view of the aforesaid statements, subject to withdrawal of the aforesaid amount by the legal representatives of the respondents, there are no subsisting claims of parties against each other. Accordingly, we dispose of the appeal. There will be no order as to costs;
- (iv) On formal application being made by the legal representatives of the respondents along with documents showing true copies of their identity, the amounts as directed above shall be paid over to them within a period of two weeks from the date of filing of such formal application.

(M.S. SONAK, J.)

(A.S.OKA, J.)