

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

**CIVIL APPLICATION NO. 3483 OF 2017
IN
FIRST APPEAL NO. 1079 OF 2017**

Mrs.Mayavati Rammanorath Nishad & Ors. ... Applicants

In the matter between

National Insurance Co. Ltd. ... Appellant

V/s.

Mrs.Mayavati Rammanorath Nishad & Ors. ... Respondents

- Mr.Vishwambar M. Parkar a/w. Mrs.Swati V. Mehta for the Applicants.
- Ms.Urmila Sanil for the Appellant.

CORAM : DR.SHALINI PHANSALKAR-JOSHI, J.

DATE : 30th AUGUST, 2018.

P.C. :

1] This is an application seeking vacating of the order dated 11th July, 2017, passed by this Court in the Civil Application No.4204 of 2014 granting stay to the execution of the impugned judgment and order.

2] It is submitted that the stay was granted only on the basis of the submission made by learned counsel for the Appellant that the entire decretal amount has been deposited. However, as the said amount was not deposited on the day when the order was passed, the

stay needs to be vacated.

3] Learned counsel for the Appellant submits that the said submission was made before the Court inadvertently and thereafter the amount is deposited in the Tribunal.

4] In view thereof, the prayer made for vacating the stay order cannot be granted.

5] The second prayer made is that the Applicants-claimants may be permitted to withdraw the entire amount with interest. However, the order passed by this Court on 11th July, 2017, shows that claimants was permitted to withdraw 80% of the amount awarded without security but on furnishing an appropriate undertaking. The remaining amount was directed to be invested in any Nationalized Bank.

6] In view thereof, when the claimants have withdrawn substantial amount, their second prayer for withdrawal of the entire amount cannot be granted.

7] The order of stay granted earlier is extended till the decision of the Appeal.

8] The Civil Application is disposed off in above terms.

9] Place the Appeal for 'admission' on 17th October, 2018.