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IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
ORDINARY ORIGINAL CIVIL JURISDICTION  
NOTICE OF MOTION NO. 85 OF 2018  
IN  
APPEAL NO. 176 OF 2017  
IN  
ARBITRATION PETITION NO. 889 OF 2010

1. Mr. Kaushal Bagadia and ors. .. Applicants  
(Org.Respondents)

**In the matter between**

1. The Sr. Superintendent of Post Offices & ors. .. Appellants  
Vs.  
1. Kanhayalal Bagadia (since deceased)  
1.(a) Mr. Kaushal Bagadia and ors. .. Respondents

Mr. Sharan Jagtiani with Ms. Nita Solanki i/by Kiran Jain & Co. for  
applicants-original respondents.

Ms. Jyotsna N. Pandhi for original appellants.

CORAM: NARESH H. PATIL &  
G. S. KULKARNI, JJ.

FEBRUARY 28, 2018.

P.C.

1. The applicants-original respondents pray for withdrawal of the  
amount deposited by the original appellants in the proceedings of the  
appeal.

2. The Award was passed on 15/1/2010. The appellants preferred a petition under Section 34 of the Arbitration and Conciliation Act 1996. Vide order dated 16/3/2016, the learned Single Judge dismissed the said petition. The original petitioners preferred an appeal before the Division Bench of this court against the said order of the learned Single Judge on 16/3/2016. By an order, the appeal came to be dismissed by the Division Bench (Coram: Naresh H. Patil & R. G. Ketkar,JJ.) on 13/11/2017.

3. The learned counsel for the applicants submits that appropriate application was filed before the Prothonotary & Senior Master, after dismissal of the appeal, for seeking withdrawal of the amount. The Prothonotary & Senior Master by a written order dated 9/1/2018 expressed the view that the applicants-original respondents may move the court for appropriate relief and accordingly the present Notice of Motion is filed.

4. The learned counsel appearing for the original appellants submits that the Department is contemplating to file a Special Leave Petition in the Apex Court against the order passed by the Division Bench

dismissing the appeal. So far final decision has not been taken at appropriate level of the respondents.

5. We have perused the record. An order dated 3/2/2017 passed by the Division Bench (Coram: Anoop V. Mohta & P. R. Bora, JJ.) in Notice of Motion (L) No. 100 of 2017 in Appeal (L) No. 488 of 2016, refers to para 3 of the affidavit filed by the original appellants, which reads as under :-

“3. I say that without prejudice to the right and contentions of the Appellants and without waiving the same, in the above Appeal and in the above Notice of Motion, the Appellants are willing to deposit in the court, the amount of Rs.1,03,74,991.29 (Rs. One Crore Three Lakhs Seventy Four Thousand Nine Hundred Ninety One and Paise Twenty Nine only) awarded by the Ld. Arbitrator with future interest at the rate of 10% p.a. from the date of award till 31.01.2017 amount to Rs.2,57,89,245/-- (Rs. Two Crores Fifty-Seven Lakhs Eighty Nine Thousand Two Hundred Forty Five only).”

6. According to the learned counsel for the applicants (respondents in appeal), the property was requisitioned in the year 1966.

15 years' period of requisition came to an end in the year 1981. The applicants moved for compensation to be paid from the year 1981 onwards.

7. We find substance in the submissions advanced by the learned counsel for the applicants. The applicants are entitled to the compensation awarded by the Arbitrator, which claim was approved by the learned Single Judge and the Division Bench of this Court. The original appellants may prosecute their remedy, if they so desire. In the facts, we are inclined to allow the applicants to withdraw the amount, along with interest accrued thereon, lying with the office of Prothonotary & Senior Master of this court. However, the order of withdrawal of the said amount shall be operative after two weeks from today.

8. The Notice of Motion is allowed. We direct the Prothonotary & Senior Master of this court to release the amount, along with interest accrued thereon, lying with the Registry of this court, after two weeks from today, after following the procedure, in favour of the applicants (respondents in appeal).

**(G. S. KULKARNI J.)**

**(NARESH H. PATIL, J.)**