

Shephali

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

SUIT NO. 3308 OF 1994

Nircon Developers Pvt Ltd ...Plaintiff

Versus

Lalibhai Alias Ajabbhai Hamzabhai Karimji & Ors ...Defendants

Ms Deepti Panda, with Ms Nandini Chittal, i/b Humranwalla & Company, for the Plaintiff.

**Ms Prachi Mhatre, i/b M/s Shiralkar & Company, for Defendants
Nos. 1 to 10, 7A, 7B and 12 to 14.**

CORAM: G.S. PATEL, J

DATED: 5th December 2018

PC:-

1. Ms Panda for the Plaintiff points out on instructions that by the order dated 6th September 1994 of AV Savant J, Defendants Nos. 1 to 10 were required to deposit an amount of Rs.10 lakhs and Defendants Nos. 15 to 19 were to deposit an amount of Rs.5 lakhs. These deposits have been made. Paragraph 16 of that order in question, even at that time, permitted the Plaintiff to withdraw these amounts without security.

2. Although the amounts have been deposited, the Plaintiff has so far not made any withdrawal. Ms Panda has instructions to state that if the Plaintiff is now permitted to withdraw the amounts with all accrued interest, the Plaintiffs will withdraw the suit itself.

3. The application is allowed. Ordered accordingly.
4. The Plaintiff will withdraw the amounts deposited pursuant to order of 6th September 1994 by 31st March 2019 with all interest accrued thereon. Defendants Nos. 1 to 10 are represented and have no objection to this. Defendants Nos. 15 to 19 can have no objection to it since nobody challenged the order of 6th September 1994.
5. Upon the amounts being withdrawn, the suit will be dismissed as withdrawn. Court Fees will be refunded in accordance with the Rules.
6. Having regard to the Plaintiff's quite considerable lethargy in effecting this withdrawal, if the Plaintiff does not withdraw the amount by 31st January 2019, the suit will nonetheless stand disposed of as withdrawn by 8th February 2019.
7. The Prothonotary and Senior Master will remit the amounts in the names of the 1st Plaintiff (or its nominee to be specified by 28th January 2019). Fixed deposits, if any, are to be encashed to give effect to this order.
8. All concerned to act on an authenticated copy of this order.

(G. S. PATEL, J)