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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
NOTICE OF MOTION NO. 529 OF 2018
IN
CHAMBER SUMMONS NO. 1606 OF 2001
IN
EXECUTION APPLICATION NO. 64 OF 2000
IN
SUMMARY SUIT NO. 2655 OF 1999

M/s. Shraddha Enterprises ... Applicant/ Plaintiff
vs.
Hotel Horizon Pvt. Ltd. ... Defendant

Mr. Firoz Ansari i/b. S. S. Lanke for the Applicant / Plaintiff.
Ms. Saban Khan i/b. Diwakar Dwivedi for the Defendant.

CORAM : A.K. MENON, J.
DATE : 17th SEPTEMBER, 2018

P. C.

1. By this notice of motion the plaintiff seeks leave to withdraw a sum of Rs.1,35,000/- which came to be deposited in this Court pursuant to orders dated 1st October, 2002 and 29th August, 2009 and interest accrued thereon without furnishing a bank guarantee as directed by this court.
2. Order dated 1st October, 2002 directed defendant to deposit a sum of Rs. 1,10,000/- in the Court and upon such deposit an ex-parte decree was set aside on

29th August, 2009. The Court passed a further order permitting the plaintiff to withdraw the amount against bank guarantee which would also provide for interest @ 10% per annum on the amount to be withdrawn. The rate of interest was subject to final orders in the suit.

3. I have heard the learned Advocate for the applicant and perused the affidavit in support. In my view no ground is made out for modification of the said order which has now attained finality. Accordingly, I pass the following order:

- (i) Notice of motion is dismissed.
- (ii) No costs.
- (iii) Parties to complete all pre-trial formalities and keep ready affidavits of evidence within period of 8 weeks.
- (iv) List the suit for directions on 19th November 2018.

(A.K. MENON, J.)