

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.7867 OF 2019
(Anant s/o Apparao Dure Vs. Appasaheb s/o Bapurao Bokade)

Mr.B.R.Kedar, Advocate for the petitioner.

(CORAM : Ravindra V.Ghugre, J.)

DATE : 28/06/2019

PER COURT :

1. Learned Advocate for the petitioner has strenuously criticized the impugned single sentence order dated 20/03/2019 passed by the Appellate Court vide which the original defendant/respondent is permitted to deposit an amount of Rs.5,00,000/- in RCA No.118/2016. Though the petitioner has canvassed the 9 grounds formulated by him in the memo of the petition, it appears that the First Appellate Court has permitted the defendant to deposit the amount without any prejudice to the rights of the plaintiff. Another submission made by the plaintiff is that the said amount should have been apportioned towards interest and costs. The principal amount to be recovered is Rs.5,00,000/-

2. I find that the above submission of the petitioner/plaintiff would always be available to be canvassed before the Appellate Court

when it decides the appeal. When the Appellate Court has permitted the defendant to deposit the amount without prejudice to the rights of the plaintiff, all contentions of the plaintiff and his rights are alive and not foreclosed.

3. In view of the above, this petition is disposed off. It, however, be noted that all the contentions of the litigating sides including the contention of the plaintiff as regards apportioning the deposited amount towards interest and costs, are kept open. Naturally, the First Appellate Court would not be influenced by the depositing of the amount by the defendant.

(Ravindra V.Ghuge, J.)