

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

**CIVIL APPLICATION NO.2608 OF 2017
IN
FIRST APPEAL NO.871 OF 2016**

Jayesh C. Doshi & Anr. .. Applicants

In the matter between

Housing Development Finance Corporation
through their authorised representative
Minakshi Singh

.. Appellant

Vs.

Bengal Mills Stores Private Limited & Ors.

.. Respondents

Ms.Shaymli Hajela i/by M/s.H and M Legal Associates for the appellant.
Ms.Sapna Rachure for the respondent no.1.

Mr.Satyam N.Vaishnav a/w Ms.Nupur J. Mukherjee i/by M/s.N.N.
Vaishnawa & Co. for the applicants/orig. respondent nos.2 & 3.

**CORAM : R.D.DHANUKA, J.
DATE : 4th November 2019**

P.C.:

. By this civil application, the applicants (original respondent nos.2 and 3) seeks withdrawal of the amount deposited by the appellant in First Appeal pursuant to the order dated 7th July 2015.

2. The First Appeal filed by the original plaintiff – Bengal Mills Stores Private Limited is already admitted. The impugned order passed by the learned trial Judge makes it clear that Notice of Motion bearing No.655 of 2014 filed by the respondent nos.2 & 3 was allowed in terms of prayer clause (a) subject to final confirmation of Judgment

and order dated 10th January 2014, against which the first appeal is admitted.

3. I therefore pass the following order :-

(i) The applicants are allowed to withdraw the amount deposited by the appellant in First Appeal No.871 of 2016 upon the applicants furnishing bank guarantee of a nationalised bank in this Court within six weeks from today. The said bank guarantee shall include interest @ 18% p.a. on the amount which shall be withdrawn by the applicants.

(ii) The said bank guarantee shall be kept alive for five years and thereafter for a like period after obtaining further orders from the Court depending upon the pendency of this appeal.

(iii) It is made clear that if the bank guarantee is not furnished within the time prescribed, the Registrar of this Court shall invest the said amount in a fixed deposit of a nationalized bank initially for a period of five years and thereafter for like period depending upon the pendency of the arbitration petition.

4. Civil application is disposed of on aforesaid terms. No order as to costs.

R.D.DHANUKA, J.