

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

**CIVIL APPLICATION (ST.) NO.4902 OF 2019
IN
WRIT PETITION NO.9972 OF 2013**

Mr. Rashid Homi Irani ... Petitioner/Applicant
V/s.

The State of Maharashtra and ors. ... Respondents

Mr.S.S.Panchpor for the Applicant.
Mr.S.H.Kankal, AGP for Respondent Nos.1 and 2.
Ms.Kanchan Phatak i/by Mr.N.P.Deshpande for Respondent
No.3.

**CORAM : UJJAL BHUYAN, J.
DATE : OCTOBER 18, 2019.**

P.C.:-

1. Heard Mr.S.S.Panchpor, learned counsel for the applicant; Ms.Kanchan Phatak, learned counsel for respondent No.3; and Mr.S.H.Kankal, learned AGP for respondent Nos.1 and 2.

2. This application has been filed in a disposed of writ petition seeking the following reliefs:-

- “A) The present Applicant may kindly be permitted to withdraw amount of Rs.4,80,000/- alongwith interest accrued thereon in view of investment made in Nationalized Bank, deposited with Registrar of High Court (Civil Appellate Jurisdiction)
B) The opponent No.3 may kindly be directed to refund an amount of Rs.5,00,000/- deposited by the applicant under Section 154(2A) of M.C.S.Act, 1960.
C) Any other just and equitable orders may be kindly be passed.
D) Cost be allowed.”

3. The related writ petition being Writ Petition No. 9972 of 2013 filed by the applicant was disposed of vide order dated 29th April, 2014 on the following terms and conditions:-

“1. The impugned orders dated 5th June, 2012 and 28th August, 2013, passed by the Deputy Registrar and Divisional Joint Registrar are quashed and set-aside and the matter is remanded back to the Deputy Registrar for fresh disposal.

2. The Deputy Registrar shall decide the respondent No.3's application under Section 101 after hearing the petitioner and passing speaking order.

3. The amount of Rs.4,80,000/- deposited by the petitioner in this Court as condition precedent for granting an ad-interim order, shall be invested in Nationalised Bank initially for a period of one year. In case, the

petitioner succeeds in proceedings under Section 101, the said amount along with interest accrued thereon as well as the amount of Rs.5,00,000/-deposited with respondent No.3 under Section 154 (2A)of the MCS Act shall be refunded to the petitioner.

4. In the event, the petitioner fails in the said proceedings before the Deputy Registrar, respondent No.3 is at liberty to apply for withdrawal of the said amount of Rs.4,80,000/- with interest accrued thereon.

5. Both the parties shall remain present before the Deputy Registrar on 12th May, 2014 at 11.00 am.. The Deputy Registrar thereafter fix a schedule of hearing and endeavour to dispose of the said proceedings independently on its own merits as expeditiously as possible and preferably within a period of six months.”

4. It is submitted by learned counsel for the applicant that both the parties had appeared before the learned Mediator, but mediation proceeding was not successful. In this connection, reference has been made to mediation report dated 14th June, 2019 which has been filed by the learned Mediator.

5. Considering the above and having regard to the

order dated 29th April, 2014, as extracted above, prayer made is allowed. While petitioner may recover the amount of Rs.4,80,000.00 from the Registry, respondent No.3 may refund the amount of Rs.5 lakhs to the applicant within a period of six weeks from the date of receipt of an authenticated copy of this order.

6. Civil Application is disposed of.

(UJJAL BHUYAN, J.)

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