

DDR

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

**CIVIL APPLICATION NO. 648 OF 2018
IN
APPEAL FROM ORDER NO. 272 OF 2012**

Tarun Ratansingh Rathi

..Applicant

vs.

Shamrao Vithal Co-op. Bank Ltd.

..Respondents

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Adv. B.S. Nagar Counsel, Adv. Poonam Utekar I/b. Global Law
Offices for applicant.

Adv. Nikhil Rajani I/b. M/s. V.Deshpande & Co. for respondents.

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CORAM : M.S.KARNIK, J.

DATE : 14th JUNE, 2019

P.C. :

It appears that the papers of the Civil Application are
not traceable.

2. The applicant is allowed to reconstruct the Civil
Application. Office to take steps. He has tendered the copy of the
Civil Application which is taken on record.

3. Learned Counsel for the respondent does not dispute that this is the same Civil Application which was served him on the earlier occasion.

4. By this Civil Application, the application has sought refund of sum of Rs.25,00,000/- along with the interest, if any, deposited in this Court in compliance with the order passed by this Court dated 1st March, 2012 in Appeal From Order No. 272 of 2012. It is claimed that the applicant was in possession of the flat which was mortgaged in favour of the respondent. For the recovery of the claims of the respondent – Bank, the said flat now has been sold off and the proceeds appropriated towards the dues of the Bank. The said amount of Rs.25,00,000/- was deposited for enabling the applicant to approach the Debt Recovery Tribunal (DRT) and to seek appropriate reliefs in respect of the flat which was in his possession. Now that flat itself has been sold off and claim of respondent Bank satisfied, there is no impediment for the applicant to withdraw this amount of Rs.25,00,000/- along with accrued interest thereon, if any.

5. Learned Counsel for respondent has opposed the application. However, I do not find any substance in the objection raised by learned Counsel for respondent as towards the recovery of the claim which is due and payable to the bank, the flat in question has already been sold and from the proceeds the claim is satisfied.

6. In this view of the matter, the application is allowed in terms of prayer Clause (a).

7. The application is disposed of.

(M.S.KARNIK, J.)