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

CIVIL APPLICATION No. 1450 OF 2019
IN
FIRST APPEAL No. 689 OF 2010

Sunil M. Mayekar	...Applicant
Vs.	
Kokan Railway Corporation Ltd. through Executive Engineer	Respondent

Mr. A.B. Tejane for Applicant
Mr. SubhashGutte i/b. Krishna Kelkar for Appellant
Dr. A.R. Patil for Respondent No.2

CORAM : K.K. TATED, J.

DATE : APRIL 16, 2019

P.C.:

1. Not on Board. Upon producing Praecipe, matter is taken on the Production Board for urgent orders.
2. Heard learned counsel for parties.
3. By this civil application, Applicant/Original Claimant is seeking permission to withdraw the remaining amount deposited by the Appellant in the Reference Court.
4. Learned Counsel Mr. Tejane submits that in the present proceedings, the Reference Court vide its judgment and award dated 30th January, 2010 has awarded the enhanced compensation in favour of the Applicant-Original Claimant. He submits that

against the judgment and order dated 30th January, 2010, the appellant has preferred the present First Appeal before this Court. He submits that this Court by order dated 14th July, 2010 in Civil Application No. 1771 of 2010 stayed the operation and implementation of the impugned judgment and award passed by the Reference Court on condition that on depositing of 50% decretal amount after giving adjustment to the amount already deposited on the earlier occasion in terms of the order dated 30th November, 2004. He submits that this Court by same order dated 14th July, 2019, permitted the applicant to withdraw 50% amount without furnishing any surety to the satisfaction of the Reference Court subject to the outcome of the First Appeal.

5. Learned counsel for the Applicant submits that now there is a marriage of the Applicant's son Abhiman on 18th April, 2019. Hence, the Applicant has preferred present civil application for allowing him to withdraw the remaining amount. He submits that for withdrawal remaining amount, the Applicant is ready and willing to give solvent surety to the satisfaction of the Reference Court.

6. Considering the submissions made by the learned counsel for the Applicant and the averments made in the civil application, I am satisfied that the Applicant has made out a case for allowing the applicant to withdraw the remaining amount by furnishing solvent surety to the satisfaction of the Reference Court. Hence, the following order:

ORDER

- (i) Civil Application is allowed and stands disposed of.
 - (ii) The Applicant/ Claimant is permitted to withdraw the remaining amount from the Reference Court by furnishing solvent surety to the satisfaction of the Reference Court.
- Parties to act on an authenticated copy of this order.

[K. K. TATED, J.]

V.A. Tikam