

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

Civil Application No.3095/2019
in
First Appeal No.305/2005

Office Notes, Office Memoranda of Coram, appearances, Court's orders or directions and Registrar's orders	Court's or Judge's orders.
Mr. Balasaheb Deshmukh I/b. D. T. Ajgekar for the Applicant	

CORAM: K.K.TATED, J.
DATED : SEPTEMBER 19, 2019

P.C.

1 Heard. The learned counsel for the Applicant submits that the Respondent is duly served. The statement is accepted. In spite of service, none appeared for the Respondent.

2 By this Civil Application, the Applicant is seeking permission to withdraw the amount deposited by the Appellant Union of India to satisfy the judgment and award dated 08.10.2004 passed by the Railway Claims Tribunal, Mumbai in O.A.No.120/2002.

3 The learned counsel for the Applicant submits that the Appellant Union of India has deposited the entire

awarded amount with interest in the Registry of this court. He submits that thereafter the First Appeal appeared on board for final hearing before this court on 29.04.2010. He submits that after hearing both the sides the First Appeal stood rejected. He submits that in view of rejection of the First Appeal the Applicant may be permitted to withdraw the sum of Rs.4 lacs with accrued interest deposited by the Appellant to satisfy the judgment and award dated 08.10.2004 passed by the Railway Claims Tribunal, Mumbai.

4 Considering the submissions made by the learned counsel for the Applicant, the averments made in the Civil Application and as the First Appeal filed by the Union of India stood rejected, I am satisfied that the Applicant - claimant has made out a case for allowing them to withdraw the amount deposited by the Union of India as per their share to satisfy the impugned judgment and award dated 08.10.2004.

5 Hence, following order is passed:

a. The Applicants are permitted to withdraw the sum of Rs.4 lacs with

accrued interest @ 6% p.a. as awarded by the Railway Claims Tribunal by the impugned judgment and award from the amount deposited by the Appellant Union of India in the Registry of this court, as per their share, without furnishing any security but subject to outcome of the First Appeal.

b. The Civil Application stands disposed of accordingly.

c. No order as to costs.

(K.K.TATED, J.)