

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

Civil Application No.2918/2019
in
First Appeal (ST) No.10841/2019

Office Notes, Office Memoranda of Coram, appearances, Court's orders or directions and Registrar's orders	Court's or Judge's orders.
Mr. S. R. Singh for the Applicant Mr. Sudhakar Pandaram I/b. Milind V. More for the Appellant	

CORAM: K.K.TATED, J.
DATED : AUGUST 21, 2019

P.C.

1 Heard. By this Civil Application, the Applicant is seeking permission to withdraw the amount deposited by the Respondent Insurance Co. as per the judgment and decree dated 24.07.2018 passed by the Bombay City Civil Court at Mumbai in Suit No.7292/1996.

2 The learned counsel for the Applicant submits that they had filed the said suit for recovery of sum of Rs.41,80,860/- with 18% p.a. interest from 01.11.1993 till realisation.

3 The learned counsel for the Applicant submits that the Trial Court, after considering the evidence on record

framed the following issues:

1. Whether Plaintiffs prove that Plaintiffs have validly taken Jewellers Block Insurance Policies since 1981- **Yes**
2. Does Plaintiff prove that Defendant No.1 company is liable for the loss of damage suffered by the Plaintiffs, being insurers ? **Yes**
3. Whether Plaintiffs prove that they suffered loss of Rs.41,80,860/- due to robbery of the rough diamonds ? **Partly Yes.**
4. Whether Defendants prove that suit is barred by Law of Limitation? **No**
5. Whether Defendants prove that the loss suffered by Plaintiffs is not covered under the insurance policy ? **No**
6. Whether Plaintiffs are entitled for damages ? **Yes**
7. What order ? **Suit partly decreed.**

4 The learned counsel for the Applicant submits that after considering the evidence on record the Trial Court held that the Applicants are entitled to recover sum of Rs.21,27,703/- along with interest @ 9% p.a. He submits that originally the suit was filed in the year 1996. He submits that being beneficiary of the said decree, the Applicant may be permitted to withdraw the amount with

accrued interest without furnishing any security.

5 On the other hand, the learned counsel for the Respondent submits that they have no objection if the amount is permitted to be withdrawn by furnishing security.

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 Civil Application.

7 Hence, following order is passed:

- a. The Applicant is permitted to withdraw 50% of the amount with accrued interest without furnishing any security and remaining 50% by furnishing solvent security to the satisfaction of the Trial Court, within 3 months from today.
- b. The Civil Application stands disposed of accordingly.
- c. No order as to costs.

(K.K.TATED, J.)