

IN THE HIGH COURT OF JUDICATURE AT BOMBAY***CIVIL APPELLATE JURISDICTION*****CIVIL APPLICATION NO. 3848 OF 2019****IN****FIRST APPEAL (ST) NO. 12763 OF 2019****Sudhir C. Dhawale****..... Applicant****IN THE MATTER BETWEEN****Reliance Gen Insurance Co. Ltd.****..... Appellant****VERSUS****Sudhir C. Dhawale & Anr.****..... Respondents**

Ms.D.Shalini Shankar for the Appellant/Applicant in CAF/2631/2019 and CAF/2632/2019.

Mr.Niketan Nakhawa for the Respondent no.1 and for the Applicant in CAF/3848/2019.

CORAM : R.D. DHANUKA, J.**DATE : 9th DECEMBER, 2019****P.C.**

Matter is on board and is mentioned out of turn.

2. Ms.Shankar, learned counsel for the original appellant waives service.

3. By this civil application, the applicant seeks withdrawal of the entire decretal amount awarded by the M.A.C.T.

4. After hearing the arguments of the learned counsel appearing for the applicant and the original appellant, in my view that interest of justice would be met with if the applicant is allowed to withdraw 50% of the amount deposited, if any, and if not deposited so far to be

deposited within four weeks from today upon the applicant filing an undertaking before the concerned M.A.C.T. that if the appellant succeeds in the first appeal, the applicant would refund the entire amount with such rate of interest as this may direct. Such undertaking should be filed within two weeks from the date of communication of the deposit.

5. It is made clear that if the undertaking is not rendered within the time prescribed with a copy to be served, the amount deposited by the applicant shall be invested by the concerned M.A.C.T. in a fixed deposit of a nationalized bank initially for a period of one year and thereafter for like period after obtaining further orders from this court depending upon the pendency of the first appeal.

6. Civil application is disposed of in the aforesaid terms. No order as to costs.

7. The parties as well as the concerned M.A.C.T. to act on the authenticated copy of this order.

[R.D.DHANUKA, J.]