

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

**CIVIL APPLICATION NO.1 OF 2019
IN
F.E.R.A. APPEAL NO.123 OF 2006
IN
FIRST APPEAL NO.265 OF 1994**

Smt. M.P.Desai ... Applicant

In the matter between:

Union of India ... Appellant

V/s.

Smt. M.P.Desai ... Respondent

Ms.Sheetal Parkash with Mr.Jayesh Desai i/by Mr.Jayesh Desai &
Asso. for the Applicant.

Mr. Anil D. Yadav for the Respondent.

**CORAM : AKIL KURESHI AND
M.S.SANKLECHA, JJ.
DATE : MARCH 7, 2019.**

P.C.:-

1. Heard learned counsel for the final disposal of this application.

2. Applicant-original respondent of FERA Appeal No.123 of

2006 has filed this application for direction to refund a sum of Rs.6,000/- with interest and further a sum of Rs.20,000/- with interest from inception. The applicant has also prayed for release of the title documents of her properties.

3. Brief facts are as under :-

The applicant was facing proceedings under the Foreign Exchange Regulation Act ("FERA" for short). During the inquiries the Government Authorities had seized the cash amount of Rs.6,000/- of the applicant and her original title deeds. The order passed by the Competent Authority was challenged by the applicant before the FERA Board, who allowed the appeal by an order dated 6th February, 1992, in which all penalties imposed on the applicant were cancelled and the department was directed to refund a sum of Rs.20,000/- deposited by her pursuant to an interim order of the board dated 25th March, 1982.

4. The department filed First Appeal No.265 of 1994 against the said order of FERA Board which was later on converted into

FERA Appeal No.123 of 2006. In such proceedings, the High Court had passed an order on 20th May, 1994 providing that the amount of Rs.20,000/- which was lying with the Enforcement Directorate be deposited in any Nationalized Bank within four weeks.

5. The department's appeal came to be dismissed for default on 12th August, 2010. Since then no request for restoration has been received by the High Court. Thus, the appellate order of FERA Board has achieved finality.

6. Grievance of the applicant is, despite this position, the department has not returned the seized cash of Rs.6,000/-, nor refunded Rs.20,000/- deposited by her as per interim directions of FERA Board not release her original title deeds.

7. Learned counsel for the department stated under instructions that the department has already initiated steps for refunding such amounts.

8. In facts of the case, this application is disposed of with following directions:-

(i) The respondent herein shall return the sum of Rs.6,000/- to the applicant with simple interest at the rate of 8% p.a. from the date of seizure till actual payment.

(ii) The department shall refund the sum of Rs.20,000/- to the applicant with following further sums.

(a) Simple interest at the rate of 8% p.a. from the date of deposit by the applicant till 20th May, 1994 .

(b) If the amount of Rs.20,000/- was deposited in Fixed Deposits as directed by the Court, for a period after 20th May, 1994, such sum shall be refunded with interest accrued on such fixed deposits.

(c) If no such Fixed Deposits was taken out for the entire or part period after 20th May, 1994, for such period the department shall calculate simple interest at the rate of 8% p.a. and pay the same to the applicant.

(iii) The respondent shall return the applicant's original documents which may be in their custody.

(iv) These directions shall be carried out latest by 30th April,

2019.

9. Civil Application disposed of accordingly.

(M.S.SANKLECHA,J.)

(AKIL KURESHI,J.)

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