

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
CIVIL APPLICATION NO. 24 OF 2019
IN
WRIT PETITION NO. 3136 OF 2008

Dilipkumar G.Damani

..... Petitioner

VERSUS

**Dy.Registrar,
Co-op.Societies, R Ward & Anr.**

..... Respondents

Mr.Dharmendra Damani, i/b. Mr.J.G.Damani for the
Applicant/Petitioner.

Mr.S.D.Rayrikar, A.G.P. for the Respondent no.1.

CORAM : S.S. SHINDE, J.

DATE : 1st APRIL, 2019

P.C.

Heard Mr.Damani, the learned counsel appearing for the applicant. The respondent no.2 society is served. None appeared for the respondent no.2.

2. Learned counsel appearing for the petitioner invited the attention of this court to the consent terms/memorandum of settlement between the petitioner and the respondent no.2 and in particular clause (h) of the said settlement and submits that the respondent no.2 society has granted no objection for withdrawal of the amount which was deposited by the petitioner in Writ Petitioner No.3136 of 2008 in the Registry of this court. He further invited attention of this court to Ex.E at page 23 of the compilation of the civil application and submits that

the said society has resolved to return the amount of Rs.1,00,000/- with interest on fixed deposit. Learned counsel for the applicant therefore prays that the application be allowed and the petitioner may be permitted to withdraw the aforesaid amount from the Registry.

3. Upon conjoint ready of the contents of the settlement and the documents placed at Ex.E, page 23, there is no room for doubt that it was agreed between the parties that the petitioner can withdraw Rs.1,00,000/- with interest on fixed deposit of the said amount. In spite of service, none appeared for the respondent no.2 In the light of aforesaid discussion in the foregoing paragraphs, the application succeeds in terms of prayer clause (a) accordingly.

4. Civil application is allowed in terms of prayer clause (a) accordingly.

5. The petitioner is permitted to withdraw the said amount unconditionally.

[S.S.SHINDE, J.]