

IN THE HIGH COURT OF JUDICATURE AT BOMBAY***CIVIL APPELLATE JURISDICTION*****CIVIL APPLICATION NO. 400 OF 2018****IN****FIRST APPEAL (ST) NO. 3762 OF 2017****The New India Assurance Co.****..... Applicant/
Appellant****VERSUS****Smt.Pavandevi Sohanlal Parmar & Ors.****..... Respondents**

Mr.Himanshu Takke, i/b. Mr.Milind V. More for the Appellant/Applicant in CAF/2488/2017 and CAF/2489/2017.

Mr.Anil A. Agarwal for the Respondent no.1/Applicant in CAF/400/2018.

CORAM : R.D. DHANUKA, J.**DATE : 3rd MARCH, 2020****P.C.**

By this application, the applicant seeks liberty to withdraw the amount deposited by the appellant. Heard learned counsel for the parties. The reasons of seeking withdrawal are set out in paragraph (3) of the civil application. The reasons recorded therein are accepted. For the reasons recorded therein, the applicant has made out a case for withdrawal of the 50%, however on the undertaking within four weeks from today subject to the effect that if the appellant succeeds in the First Appeal, the respondent would return the amount that would be withdrawn with interest at such rate as this court may direct by subsequent order.

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2. It is made clear that if the undertaking is not rendered within the time prescribed with a copy to be served upon the appellant's advocate, the order passed by this court today allowing withdrawal of the amount to stand vacated without further reference to court. In that event, the amount deposited by the appellant shall be invested by the concerned M.A.C.T., in a fixed deposit of a nationalized bank initially for a period of five years and thereafter for like period depending upon the pendency of the First Appeal.

3. Civil application is disposed of on the aforesaid terms. No order as to costs.

[R.D.DHANUKA, J.]