

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

**CIVIL APPLICATION NO. 2750 OF 2019
IN
FIRST APPEAL NO. 789 OF 2015**

Shaikh Shabina Irfan ... Applicant

In the Matter Between :-

The New India Assurance Co. Ltd. ... Appellants

V/s.

Shaikh Shabina Irfan & Ors. ... Respondents

**WITH
CIVIL APPLICATION NO. 2752 OF 2019
IN
FIRST APPEAL NO. 790 OF 2015**

Mr. Suraiyya Makhdum Mulla ... Applicant

In the Matter Between :-

The New India Assurance Co. Ltd. ... Appellants

V/s.

Mr. Suraiyya Makhdum Mulla & Ors. ... Respondents

**WITH
CIVIL APPLICATION NO. 2751 OF 2019
IN
FIRST APPEAL NO. 791 OF 2015**

Shaikh Gulab Maqbool ... Applicant

In the Matter Between :-

The New India Assurance Co. Ltd. ... Appellants

V/s.

Shaikh Gulab Maqbool & Ors. ... Respondents

**WITH
CIVIL APPLICATION NO. 2754 OF 2019
IN
FIRST APPEAL NO. 792 OF 2015**

Shabana (Raju) Shahid Pathan ... Applicant

In the Matter Between :-

The New India Assurance Co. Ltd. ... Appellants

V/s.

Shabana (Raju) Shahid Pathan & Ors. ... Respondents

**WITH
CIVIL APPLICATION NO. 2797 OF 2019
IN
FIRST APPEAL NO. 794 OF 2015**

Sankpal Visal Jagtap & Anr. ... Applicants

In the Matter Between :-

The New India Assurance Co. Ltd. ... Appellants

V/s.

Sankpal Visal Jagtap & Anr. & Ors. ... Respondents

Mr. Rajan Pawar, for the Applicant & Original Respondent No.1.

Mr. H. G. Misar, for the Appellant.

CORAM : R.D.DHANUKA,J.

DATE : 28th January, 2020.

P.C.:-

1] By these five Civil Applications, the applicants pray for withdrawal of amount deposited by the appellant. My attention is invited

to the order passed by this Court (Coram : G.S. PATEL,J) on 27th June 2017 in First Appeal No. 786 of 2015 alongwith other companion matters permitting the applicants to withdraw 50% of the entire amount with the perpetual interest without security on furnishing undertaking.

2] The facts in those matters are identical to these matters. Heard learned counsel appearing for the applicants and the appellant. Learned counsel for the applicant submits that though his client has instructed to press for withdrawal of 100% amount, however in view of the order already passed on 28th June 2017 in identical matters permitting withdrawal of 50% amount with proportional interest, his client would be inclined to press for withdrawal of 50% amount with proportional interest on furnishing undertaking. Statement is accepted.

3] Since, there is no dispute that these five matters are identical to the matters in hand before this Court on 27th June 2017 i.e. in First Appeal No. 786 of 2015 with other companion matters, I am inclined to permit the applicants to withdraw 50% of the amount that has been deposited by the appellant at this stage upon the applicants filing an undertaking before the M.A.C.T., Nashik within four weeks from today to the effect that if the applicants do not succeed in the First Appeals, they would return the amount that would be withdrawn with interest at such rate as this court may direct by subsequent order.

4] 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 simultaneously, the amount deposited by the appellant shall be invested by the M.A.C.T., Nashik in a fixed deposit of a nationalized bank initially for a period of five year and thereafter for like period depending upon the pendency of the First Appeal. The balance 50% amount shall also be invested in the aforesaid manner.

5] Civil Applications are disposed of in aforesaid manner.

6] Parties as well as M.A.C.T. Nashik to act upon the authenticated copy of this Order.

[R.D.DHANUKA, J.]