IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION NO.2159 OF 2019
IN
FIRST APPEAL NO.804 OF 2015

Jyoti Pundalik Aher & Ors. .. Applicants

In the matter between
United India Insurance Co. Ltd. .. Appellant
Vs.
Jyoti Pundalik Aher & Ors. .. Respondents

Mr.Jayendra D. Khairnar Vinod P. Sangvikar for the applicants/original respondent nos.1 to 3.
Mr.Ketan Joshi for the appellant.

CORAM : R.D.DHANUKA, J.
DATE : 22nd January 2020

P.C.:

. By this civil application, the applicants (original claimants) seeks permission to withdraw the amount deposited by the original appellant.

2. Mr.Joshi, learned counsel for the appellant states that appeal filed by his clients is dismissed for not filing the private paper book. He states that his clients proposes to file civil application seeking restoration of the first appeal and would file such application shortly. Statement is accepted.

3. The applicants are permitted to withdraw 50% of the amount deposited by the appellant with MACT, Nashik in MACP

No.1468 of 2011 at this stage, upon furnishing an undertaking before concerned MACT within four weeks from today to the effect that if they do not succeed in this first appeal filed by the appellant upon restoration, they would return the amount that would be withdrawn with interest at such rate as this Court may direct by subsequent order. Copy of the undertaking shall be served upon the learned advocate appearing for the appellant within one week from the date of filing such undertaking. Amount would be withdrawn only after filing such undertaking.

4. It is made clear that if the undertaking is not furnished within four weeks from today, the order passed by this Court allowing the applicants to withdraw 50% of the amount deposited by the appellant to stand vacated without further reference to the Court. In that event, the concerned MACT shall invest the said amount in a fixed deposit of a nationalized bank initially for a period of five years and thereafter for like period after obtaining further orders from this Court depending upon the pendency of the first appeal.

5. The concerned MACT is directed to invest the balance 50% of the amount in a fixed deposit of a nationalized bank initially for a period of five years and thereafter for like period after obtaining further orders from this Court depending upon the pendency of the first appeal.

6. Learned counsel for the applicants states that his clients would not execute the judgment and decree passed by the MACT, Nashik in MACP No.1468 of 2011 for a period of eight weeks from today. Statement is accepted.

7. Civil application is disposed of on aforesaid terms. No order as to costs. Parties as well as the concerned MACT to act on the authenticated copy of this order.

R.D.DHANUKA, J.