IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION NO.3521 OF 2019
IN
FIRST APPEAL (ST.) NO.17678 OF 2019

The State of Maharashtra & Anr. .. Applicants/Appellants
Vs.
Indirabai Narayan Bivalkar & Ors. .. Respondents

Mr.Yogesh Dabke, AGP for the applicants/appellants-State.
Mr.Rahul Vijaymane i/by Mr.Satyajeet Anil Rajeshirke for the respondent nos.2 & 3.

CORAM : R.D.DHANUKA, J.
DATE : 27th January 2020

P.C.:

. Learned AGP for the applicants, on instructions, undertakes that his clients would deposit entire amount awarded by the Civil Judge, Senior Division, Alibag in LAR No.35 of 2008 with interest to be computed upto the date of deposit within six weeks from today with the Reference Court. Undertaking is accepted.

2. In view of the undertaking rendered by the learned counsel for the applicants, there shall be ad-interim relief in terms of prayer clause (b). It is made clear that no further extension of time would be granted. If the said amount is not deposited within the time prescribed, the ad-interim order passed by this Court to stand vacated without further reference to the Court.

3. The respondent nos.2 & 3 (original claimants) are permitted to withdraw 50% of the amount that would be deposited by the applicants with the Reference Court, at this stage, upon furnishing an undertaking before the Reference Court within four weeks from the date of communication of the factum of deposit to the effect that if they do not succeed in this first appeal, they would return the amount that would be withdrawn with interest at such rate as this Court may direct by subsequent order.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 applicants 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 Amount would be withdrawn only after filing such undertaking.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 the date of communication of the factum of deposit, the order passed by this Court allowing the respondent nos.2 & 3 to withdraw 50% of the amount that would be deposited by the applicants to stand vacated without further reference to the Court. In that event, the Reference Court shall invest the said amount in a fixed deposit of a nationalized bank initially for a period of one year and thereafter for like period depending upon the pendency of the first appeal.

5. The Reference Court is directed to invest the balance 50% of the amount in a fixed deposit of a nationalized bank initially for a period

of one year and thereafter for like period depending upon the pendency of the first appeal.

6. Civil application is disposed of on aforesaid terms. Parties as well as the Reference Court to act on the authenticated copy of this order.

R.D.DHANUKA, J.