IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
CIVIL APPLICATION NO. 84 OF 2015
IN
FIRST APPEAL NO. 2876 OF 2007

Smt. Bhagirathi Vasant Gavali @ Todkar
& Ors. ….. Applicants

IN THE MATTER BETWEEN

Branch Manager,
The New India Assurance Co. Ltd. ….. Appellant

VERSUS

Smt. Bhagirathi Vasant Gavali @ Todkar
& Ors. ….. Respondents

Mr. Onkar Gawade, i/b. Mr.Vijay Killedar for the Applicants/Org.Respondent nos. 1 to 4.

Mr.H.G.Misar for the Appellant.

CORAM : R.D. DHANUKA, J.

DATE : 5th FEBRUARY, 2020

P.C.

Heard learned counsel for the parties. The applicants have prayed for liberty to withdraw the amount deposited by the original appellants in the appeal filed against the judgment and award dated 18th January, 2007. The appeal is already admitted by this court long back. The applicants have however not withdrawn any amount till date.

2. The reasons for withdrawal of the amount are mentioned in paragraph (5) of the civil application. Case is made out for 50% withdrawal of the amount deposited by the appellant with accrued interest on the condition that if the applicants fails in the first appeal,

they would return the amount that would be withdrawn with interest at such rate as this court may direct by subsequent order. Such undertaking shall be filed within four weeks from today with a copy to be served upon the appellant's advocate simultaneously. If the undertaking is not rendered within four weeks from today, this order allowing the applicants to withdraw 50% of the amount with accrued interest to stand vacated without further reference to court.

3. 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., Sangli in a fixed deposit of a nationalized bank initially for a period of one year and thereafter for like period after obtaining further orders from this court depending upon the pendency of the first appeal.

4. The applicant is directed to convey this order to the respondents for compliance and information. The parties as well as the executing court to act on the authenticated copy of this order. M.A.C.T., Sangli is directed to invest the balance 50% of the amount in the fixed deposit of a nationalized bank initially for a period of five years and for like period after obtaining further orders from this court.

5. Civil application is allowed on the aforesaid terms. No order as to costs.

6. The parties as well as the concerned M.A.C.T. to act on the authenticated copy of this order.

7. The appellant is directed to file private paper-book within six months from today with a copy to be served upon the respondents' advocate simultaneously.

[R.D.DHANUKA, J.]