

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

Interim Application No.10095 of 2022

In

First Appeal (st) No. 1053 of 2020

Ram Ganpat Khataokar & anr. ... Applicant
V/s.

Life Insurance Corporation of India ... Respondents

Mr. M.J. Sharma for applicant.

Mr. Roop Basu i/b the Law Point for the Respondents.

CORAM : SHRIKANT D. KULKARNI,J.

20th July 2022

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This is an application seeking permission to withdraw the amount deposited by the appellant-LIC.

2. Heard Mr. Sharma, learned Counsel for the applicant and Mr. Roop Basu i/b. The Law Point, learned Counsel for the respondent-LIC.

3. Mr.Sharma, learned Counsel for the applicant submitted that

applicant is entitled to withdraw the decretal amount deposited as per the judgment and decree passed by the Trial Court. Recently, applicant has incurred expenditure of Rs.5 lacs towards medical treatment of his wife and applicant is badly in need of money. He, therefore, urged to allow this application.

4. On the other hand, learned Counsel for the appellant-insurance company strongly opposed to allow this application. He submitted that the Trial Court should not have entertained the Summary Suit filed against the appellant-LIC. There was no privity of contract between the applicant and LIC as such. The maintainability of the Suit is under challenge. He, therefore, strongly opposed to allow the application.

5. He further apprehends that if applicant is allowed to withdraw the amount, it would be difficult to recover the same.

6. Having regard to the submissions of learned Counsel for the parties, I have gone through the Judgment and decree passed by the Trial Court in Summary Suit. An important question of law is raised in the appeal which goes to the root of the matter.

7. Under these circumstances, it will not be just and proper to allow the applicant to withdraw the amount deposited by the appellant-LIC.

8. Hence, I am not convinced to allow this application. Application is hereby rejected. The appeal is expedited.

9. It is made clear that appeal can be disposed of at admission stage. The Registry is directed to list this appeal for admission in the week commencing from 22nd August 2022.

(SHRIKANT D. KULKARNI, J)

L.S. Panjwani, P.S.