

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

**INTERIM APPLICATION 16951 OF 2022
IN
WRIT PETITION 3627 OF 2020**

The New India Assurance Co.Ltd. ..Applicant

IN THE MATTER BETWEEN:

Shapoorji Pallonji & Co.Pvt.Ltd. Petitioner.

V/s.

The New India Assurance Co. Ltd. .. Respondent.

Mr.Ashish Kamat a/w Mr. Arun Siwach, Ms Priyanka Mitra, Mr.
Karan Khetani i/b Cyril Amarchand Mangaldas for the petitioner.

Mr.VY Sanglikar, for the applicant/respondents.

CORAM : ROHIT B. DEO, J.

DATE : 29 JULY 2022

PC.

1. This application is preferred for permission to withdraw the amount of Rs.1,00,00,000/- (Rupees One Crore Only) deposited by the petition in this Court with the interest accrued.

2. The challenge in the petition is to concurrent findings recorded in order dated 15.2.2019 rendered by the Estate Officer and Judgment dated 20.10.2020 by the learned Principal Judge, City Civil Court, Bombay in Appeal under Section 9 of the Public Premises (Eviction of Unauthorized Occupants) Act 1971. The Estate Officer directed the petitioner to pay the damages at the rate

of Rs.4,56,000/- per month w.e.f. 1.08.2013 till delivery of possession.

3. According to the respondent, the amount recoverable from the petitioner in terms of the order impugned is Rs. 5 Crores or thereabout.

4. Learned Counsel for the petitioner is seriously objecting to grant of permission to withdraw the amount. Learned Counsel for the petitioner points out that the amount of Rs.1,00,00,000/- (Rupees One Crore Only) is deposited only to demonstrate bonafides and as interim arrangement subject to the understanding that the petition itself will be taken up for final hearing at the stage of admission.

5. I note that it is not even the case of the petitioner that if New India Assurance Co. Ltd is permitted to withdraw the amount and the petition is allowed, the amount which is withdrawn shall not be returned or refunded. New India Assurance Company is a Government Company and in any event, there is no reason for anybody to nurture an apprehension that the amount withdrawn shall not be safe or secured.

6. I am inclined to permit the respondent-New India Assurance Company to withdraw the amount of Rs.1,00,00,000/- (Rupees One Crore Only) deposited in this Court alongwith the interest accrued subject to an Undertaking that if the petition is allowed the amount withdrawn shall be immediately refunded to the petitioner with interest at the rate of 6% p.a.

7. The petition shall be listed for final hearing at the stage of admission on 26.8.2022.
9. Interim application is allowed in the aforestated terms.
- 10 In the meanwhile, interim order shall continue till the next date of hearing.

(ROHIT B. DEO, J.)