

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH AT NAGPUR

CIVIL APPLICATION [CAF] NO.388 OF 2021 IN
FIRST APPEAL NO.1094 OF 2009 [D]

[M/s. Sadguru Enterprises and others .vs. Ghanshyamdas s/o Pamandas Wadhwani and others]

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Ms. Mallika Babhulkar, Adv. h/f Shri M.A. Kadu, Adv. for the appellants,
Shri Prasad Bawankule, Adv. h/f Shri S.V. Purohit, Adv. for respondent no.1,
Shri Kushal R. Jain, Adv. h/f Shri V.S. Giramkar, Adv. for respondent nos.1 and 2.
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CORAM : SMT. M.S. JAWALKAR, J.
DATE : 29/06/2022.

Present application is filed by the applicants-respondents for grant of permission to withdraw the amount deposited by the appellants in this Court.

2. It appears that there was Special Civil Suit No.65/2006 filed by the plaintiff before the Trial Court and the learned Trial Court, vide judgment and decree dated 29.08.2008, said suit came to be decided on 29.08.2018. Being aggrieved by the said judgment and decree, original defendant filed First Appeal bearing No.1094/2009 before this Court. Vide order dated 04.12.2009, the appellants were directed to deposit the amount within one week. Thereafter, in view of enhancement on the pecuniary jurisdiction of the Lower Courts, the said First Appeal No.1094/2009 came to be transferred to the District Judge, Amravati and was re-registered as Regular Civil Appeal No.166/2012. The learned District Judge, after hearing both the parties,

dismissed the First Appeal by order dated 03.05.2017. The present applicants filed execution proceeding for recovery of amount of Rs.2,79,066/-. It is the contention of the applicants that out of the said amount, amount of Rs.2,01,250/- has already deposited in this Court and applicants are entitled for the same.

3. In this view of the matter and in view of dismissal of First Appeal in May-2017, it would be appropriate to transfer the said amount along with accrued interest thereon to the District Judge, Amravati for taking necessary steps.

4. Nazir to verify whether the amount is lying with this Court and if it is found that the said amount is lying with this Court, the steps may be taken to transfer the said amount to the District Judge, Amravati for further directions.

5. After the amount is transferred to the District Judge, Amravati along with interest accrued thereon, applicants to move proper application for withdrawal of amount.

6. In view of the fact that the Vakalatnama is filed by Advocate Shri V.S. Giramkar for respondent nos.1 and 2, earlier Advocate representing respondent no.1 Shri S.V. Purohit is discharged.

7. Civil Application is allowed and disposed of accordingly.