

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
BENCH AT AURANGABAD**

**44 CIVIL APPLICATION NO.13132 OF 2019  
IN FA/803/2003**

**SACHIN CHAMPATLAL THOLE  
VERSUS  
MANISH MADANLAL BAMB AND ORS**

...

Advocate for Applicant : Mr. A. S. Gandhi  
Advocate for Respondent No.1 : Mr. S. D. Kulkarni

....

**CORAM : SANDIPKUMAR C. MORE, J.  
DATED : 16/01/2023.**

***P. C. :***

1. Heard rival submissions.
2. The applicant / original appellant Sachin Champalal Thole has filed this application for withdrawal of amount of Rs.60,000/- alongwith the accrued interest and also for direction to respondent No.1 Manish Madanlal Bamb to redeposit the amount of Rs.1,00,000/- alongwith 18% interests per annum from 15/03/2005.
3. It appears that initially there was a decree of Rs.2,20,224/- alongwith interest @ 16% p.a. in favour of respondent No.1 Manish Madanlal Bamb in Special Civil Suit No.8 of 2001 passed by learned Civil Judge Senior Division, Kopargaon, District Ahmednagar.

4. The said decree was challenged by the present applicant before this court and at the relevant time, the applicant had deposited amount of Rs.1,60,000/- in this court. It is not in dispute that the said appeal was transferred to learned District Judge-1, Kokpargaon for hearing on account of enhancement of monetary jurisdiction. However, this court vide order dated 15/03/2005 had allowed the present respondent no.1 to withdraw amount of Rs.1,00,000/- from the aforesaid amount of Rs.1,60,000/-.

5. Now the appeal, which was transferred to learned District Judge-1, Kopargaon, got allowed on 04/12/2015 and the aforesaid decree in Special Civil Suit No.8 of 2001 was set aside.

6. Thereafter, vide order dated 04/12/2021 this court permitted the present applicant to withdraw the balance amount of Rs.60,000/- alongwith the accrued interest thereon. However, the amount of Rs.1,00,000/-, which was already withdrawn by the respondent No.1, remained with him only. Thereafter, this court had also issued notice to surety i.e. Madanlal Zumbarlal Bamb, who had executed surety bond at the time of withdrawal of amount of Rs.1,00,000/- by the respondent No.1. However, it appears that the notice could not be served upon surety. It appears that the said surety is in fact father of the respondent No.1, who could have avoided the notice for avoiding the repayment of Rs.1,00,000/-. Therefore, certain directions are required to be given to respondent no.1 to redeposit the amount of Rs.1,00,000/- alongwith the

remaining rate of interest of the year 2005. In view of the same, the application is hereby allowed in parts.

7. The respondent No.1 is directed to deposit the amount of Rs.1,00,000/- alongwith the interest @ 12% p.a. from 15/03/2005 within three months from the date of this order, in this court.

8. The application is accordingly disposed of.

( SANDIPKUMAR C. MORE, J. )

VS MaInd/-