

Ghuge

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

**INTERIM APPLICATION NO.3599 OF 2021
IN
FIRST APPEAL NO.285 OF 2022**

Anil Ramesh Pawar	... Applicant
In the matter Between	
Prakash Adhikrao Patil	... Appellant
V/s.	
Anil Ramesh Pawar	... Respondent

Mr. Chandrakant P. Yadav for the applicant.

Mr. Niranjana Bhavake i/b Bhavake and Associate for
the respondent.

CORAM : AMIT BORKAR, J.

DATED : FEBRUARY 15, 2023

P.C.:

INTERIM APPLICATION NO.3599 OF 2021

1. The application is filed for refund of decretal amount of Rs.8,40,000/- (Rupees Eight Lakh Forty Thousand Only) deposited by the Judgment Debtor as per order of this Court.
2. The appeal arises out of decree passed in Summary Civil Suit. The appellant has failed to file written statement. The suit was based on negotiable Instrument of cheque, signature on the cheque is not disputed.
3. The appeal has been admitted. The amount has been deposited in pursuance of decree of the Court. Considering the nature of the suit and the fact that leave to defend was not granted to the appellant, the applicant has made out a case for withdrawal

of the amount.

4. Insofar, as the objection to the application, that the prayer is for refund of decretal of amount has no merits, as in substance the applicant seeks permission to withdraw the amount deposited as per order of this Court.

5. For the reasons stated in the application, the Interim Application is allowed in terms of prayer clause (a) subject to applicant filing an undertaking within Four (4) weeks stating that if, in case the appellant succeeds in appeal, he will reimburse the appellant with entire decretal amount along with interest at prevalent bank rate.

(AMIT BORKAR, J.)