



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

INTERIM APPLICATION NO. 3427 OF 2022
IN
REVIEW PETITION NO.113 OF 2018

Neel Kumar Gupta and Anr. ... Applicants.
Versus
Mrudal Vinay Rathi ... Respondent.

Ms. J.A. Sarkhot i/by Mr.Mubeen Sarkhot a/w Mr.Ganesh Narula and
Mr. Iram Shaikh, Advocates for the Applicants in Interim Application,
and for Respondents in Review Petition.
Mr.Sandeep Sharma, Advocate for the Respondent in Interim
Application and for Petitioner in Review Petition.

CORAM : SHARMILA U. DESHMUKH, J.
DATE : DECEMBER 20, 2023.

P. C.:

1. By this interim application, the applicant seeks permission to withdraw the sum of Rs.5,00,000/- deposited by the Petitioner in the Registry vide order dated 13th April, 2018 passed in Writ Petition No.3818 of 2018. This Court while dismissing the writ petition has imposed exemplary costs on the petitioner quantified collectively at Rs.5,00,000/- to be paid to the present Applicant-Neel Kumar Gupta. As against this order, Review Petition No.113 of 2018 has been filed by the petitioner and is pending.

2. Learned counsel appearing for the applicant submits that the amount have been deposited by the petitioner in the year 2018 and though the review petition has been filed in the year 2018, no steps have been taken by the review petitioner to move the review petition. She submits that this Court has imposed exemplary costs directed to be paid to the petitioner and the pendency of the review petition without any stay should not come in the way of the Applicant to withdraw the said amount.

3. Learned counsel appearing for the petitioner submits that the review petition be taken up for hearing or in the alternative the applicant be directed to furnish bank guarantee for the amount.

4. Considered the submissions.

5. The sum of Rs.5,00,000/- has been imposed by this Court as and by way of exemplary costs which is required to be paid to the Applicant. Although, the review petition has been filed in the year 2018 till the date no efforts have been taken by the petitioner to move the review petition or an obtain any interim orders therein. Costs being directed to be paid to Neel Kumar, being exemplary costs, I see no reason to keep the said amount pending in the Registry and not to permit the applicant to withdraw the said amount. No reason

has been put forth by the petitioner to object to the withdrawal of the amount except that the review petition is pending. In my opinion, the pendency of the review petition will not preclude the applicant's right to seek withdrawal of the costs which has been directed to be paid to the applicant.

6. In light of the above, the interim application is allowed. The applicant is permitted to withdraw the sum of Rs.5,00,000/- deposited by the petitioner in the Registry of this Court alongwith accrued interest, subject to filing an undertaking that in event the review petition is allowed, the applicant shall refund the sum withdrawn i.e. Rs.5,00,000/- alongwith accrued interest thereon with interest at the rate of 6% per annum from the date of withdrawal of the amount within a period of four weeks from the date of order passed in review petition.

7. Interim Application stands disposed of accordingly.

(Sharmila U. Deshmukh, J.)