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Uday S. Jagtap

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

**CIVIL APPLICATION NO. 14 OF 2020
IN
FIRST APPEAL NO. 855 OF 2019**

Vijay Rupchand Ranka

.. Applicant /
Orig. Respondent

Vs.

Praful Manohar Vaidya

.. Respondent /
Orig. Appellant

.....
Mr. Armaan Grewal i/b N.N. Vaishnawa & Co. for the applicant/
Orig. Respondent no.1

Mr. E.A. Sasi for the respondent

.....

CORAM : PRITHVIRAJ K. CHAVAN, J.

DATED : 30th MARCH, 2023

P.C.

1. Vide order dated 9th March 2023 passed by this Court, the learned Counsel for the appellant was granted an opportunity to ascertain about the capability of the plaintiff/respondent to refund the amount in case the appellant succeeds in appeal.

2. The appellant has tendered his affidavit stating that having visited Shop No.29 he noticed that some third person was carrying

on business. As a matter of fact, since it is a money decree and in view of the fact that the applicant / respondent has already undertook that in case the appellant succeeds, he would refund the amount with interest, there is hardly be any reason for not allowing the prayer.

3. As such, the application allowed in terms of prayer clause (a). The applicant is allowed to withdraw the amount, subject to an undertaking that in case the appellant succeeds, he will refund the amount with interest, which would be accrued on the date of decision of the appeal.

4. The application is disposed of.

(PRITHVIRAJ K. CHAVAN, J.)