

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

SECOND APPEAL NO.20/2022

Govindo Shaw @ Karmarkar s/o Laxman Shaw and another
Vs.
Partho s/o Ashok Kumar Roy

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

Court's or Judge's orders

Shri A.M. Kukday, Advocate for appellants
Shri S. Savdekar, Advocate for respondent

CORAM : SMT. M.S. JAWALKAR, J.

DATED : 23/03/2023

The learned Counsel for appellant filed reply to the application for grant of permission to withdraw deposited amount is taken on record. Copies are already served to respondent.

2. Office to note of the same and to accept.

CIVIL APPLICATION (CAS) NO.300/2023

1. The present application is filed for grant of permission to withdraw Rs.2 Lacs deposited by the appellants. It is submitted by learned Counsel for respondent that the amount due is approximately Rs.20 Lacs, therefore, the amount of Rs.2 Lacs which is deposited by the appellants herein be allowed to be withdrawn. The learned Counsel for appellants submits that already amount of Rs.5 lacs is deposited and withdrawn by the respondent herein. The amount in execution has shown is not admitted by the present appellants. As such, permission may not be granted to withdraw the amount. However, considering the fact that already stay was granted subject to condition of

deposit of amount which was not complied with as such stay was vacated. However, considering the necessity and difficulties shown by applicant, the arrest warrant was stayed subject to payment of deposit of Rs.2 lacs. As such, I do not see any impediment in allowing the application for grant of permission to withdraw the said amount subject to undertaking to the effect that if appellant would succeed in the matter, the respondent will refund the amount. The applicant to file said undertaking within 10 days before the Registry.

2. The Registry is directed to release the amount of Rs.2 Lacs along with accrued interest if any to the applicant/respondent subject to furnishing of undertaking as referred above within ten days. The application stands disposed of accordingly.

3. The Registry is directed to accept the copy of application for early hearing if filed within a week, though it is on one side of the page.

JUDGE

R.S. Sahare