



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

CIVIL APPLICATION NO. 14364 OF 2023 IN SA/244/2023

**DWARKABAI TRIMBAK TEKALE AND OTHERS
VERSUS**

**THE SUPERINTENDING ENGINEER,
IRRIGATION DEPARTMENT, OSMANABAD**

.....
Sr. Advocate for Applicant : Mr. V.D. Salunke i/b. Naiknavare Ramesh Vitthal
Advocate for Respondents : Mr. M.A. Gaikwad
.....

**CORAM : Y.G. KHOBRAGADE, J.
DATE : 19.04.2024**

PC.:-

1. Heard the learned counsel appearing for the applicant/original plaintiff and the learned counsel appearing for the non-applicant/original respondents at length.

2. By the present application, the original-plaintiff/applicant prayed for permission to withdraw the entire amount deposited by the non-applicant/original defendants before this Court in pursuance of order dated 29.03.2023.

3. The learned counsel appearing for the applicant submits that as per judgment and decree dated 26.12.1994 passed in Special Civil Suit No.31/1994 the present non-applicants/defendants were directed to pay damages to the tune of Rs.7,25,000/- with interest @ 9% from the date of

order till its realization. The said judgment and decree was questioned by the original-defendants in RCA No.100/2012 before the First Appellate Court. On 14.06.2018 the learned First Appellate Court dismissed the appeal. Being aggrieved by the said, the original/defendants filed present second appeal.

4. On 29.03.2023, this Court passed an order in civil application no.12003/2021 and stayed the effect and operation of the judgment and decree passed by the learned trial Court and confirmed by the First Appellate Court on deposit of 75% of decretal amount. Accordingly the original defendants/ appellants deposited an amount of Rs.17,88,950/-i.e. 75% of the decretal amount with interest. Since the applicant/original plaintiff seeks withdrawal of the said amount, therefore, it would be just and proper to permit the present applicant/original plaintiff to withdraw the 50% of the amount on furnishing undertaking and 50% of the amount on furnishing solvent surety to the satisfaction of the Registrar (Judicial) of this Court along with an undertaking that in case the judgment and decree is reversed the present applicant shall re-deposit the said amount within a period of four weeks therefrom before this Court.

5. Accordingly, the civil application is disposed off.

[Y.G. KHOBRADE, J.]