

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

**INTERIM APPLICATION NO.18051 OF 2023
IN
FIRST APPEAL NO.802 OF 2023**

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Yuvraj Ramchandra Vasav ..Applicant
(Org. Respondent No.1)
Versus
Sitaram Jyoti Kadam & Ors. ..Respondents

Ms. Sushan Mhatre, Applicant/Org. Respondent No.1 in IA/18051/2023.

Mr. R. M. Hardas, for the Appellant.

Mr. Mohan C. Kumbhar, for the Respondent No.2.

Ms. A. R. S. Baxi, for Respondent Nos.3 & 4.

CORAM : KISHORE C. SANT, J.

DATE : 16th APRIL, 2024

PC.

1. Heard.

2. This Application is filed by Applicant/Respondent No.1, original employee before the Employee's Compensation Commissioner for withdrawal of the amount that is deposited by the Appellant/employer in the office of learned Commissioner under Employee's Compensation and Judge, Labour Court, Satara. Learned Commissioner allowed the Application and directed the Appellant to pay to the employee an amount of Rs.8,13,312/- along with interest at the rate of 12% per annum from the date of accident till actual

realization by judgment and order dated 06.01.2023. Appellant has approached this Court and has sought stay to the impugned judgment and award. The amount of compensation is already deposited and presently lying in the office of learned Commissioner. Applicant has prayed for withdrawal of the said amount. He has stated that though there is order in his favour, he is deprived of the said amount. He also further submits that his son is suffering from brain tumor and for his treatment he requires the amount.

3. Learned advocate for the Respondent/ Org. Appellant vehemently opposes the Application. He submits that the Appeal is filed on substantial question of law, even the relationship between employer and employee is disputed. The employee was called for work of construction of the house. He further submits that once the amount is disbursed, it would be difficult to get the amount back, in case the Appeal is allowed.

4. This Court finds that there is already judgment in favour of the present Applicant. Learned Judge has considered the evidence and allowed his Application. Though there is judgment in favour of the Applicant, he is still deprived of the amount. Considering that the Appeal is not likely to be heard in near future and considering that there is already judgment in favour of the Applicant, this Court finds that interest of justice would be met by allowing partial withdrawal on certain conditions. Hence, the following order :-

- i) The Application is partly allowed.
 - ii) The Applicant is entitled to withdraw 50% of the amount deposited with the Commissioner under Employee's Compensation and Judge, Labour Court, Satara, along with interest, if any, accrued thereon, on furnishing undertaking that in case the Appeal is allowed, he shall redeposit the amount within 12 weeks.
 - iii) Remaining 25% amount is allowed to be withdrawn by furnishing security to the satisfaction of learned Commissioner.
 - iv) Remaining 25% amount be kept in fixed deposit in any Nationalized Bank for fixed period to be renewed from time to time till pendency of the Appeal.
5. The Application stands disposed of.
 6. Hearing of the Appeal is expedited.

[KISHORE C. SANT, J.]