

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

**CIVIL APPLICATION NO. 2698 OF 2015
IN
FIRST APPEAL NO. 873 OF 1992**

M/S. D.A. Abubaker And Ismail ... Applicant

IN THE MATTER BETWEEN

Union of India ... Appellant

Vs.

M/S. D.A. Abubaker And Ismail ... Respondent

Ms. Shaba N. Khan, i/by Adv. Mihir Govilkar, for the Applicant.

Mr. T. J. Pandian a/w Gautam, for the Respondent.

CORAM : KISHORE C. SANT, J.

DATE : 13th March, 2024

P.C.:-

1. Heard. This Application is filed praying for withdrawal of the amount i.e. lying in this court in view of the order passed by this Court in the above First Appeal No. 873 of 1992 which is disposed of by Order dated 5th September 2011. This Court by the said order modified the Judgment and Order passed by the Railway Claims Tribunal. The Railway Claims Tribunal by the impugned Order had granted the interest @ 18% p.a. The same came to be reduced @ 6% p.a. During the pendency some part of the amount was withdrawn by the Original Claimant/Applicant however some amount is still lying in this Court.

2. Considering the submissions and the order passed in the appeal this Court finds that it would be proper to allow the Applicant to withdraw the 1/3rd of the total amount lying in this Court and 2/3rd amount would be paid to the Respondent/Railways. As per the report prepared by the Nazir of this Court on 5.2.2015 it is shown that the amount of Rs. 9,35,096/- is re invested by the Nazir.

3. In view of the same it is directed that now the amount of Rs. 9,35,096/- along with accrued interest be allowed to be withdrawn in following proportion i.e. 1/3rd to be paid to the Applicant and 2/3rd of the said amount be paid to the Respondent.

4. The Application stands disposed of.

(KISHORE C. SANT, J.)