

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

INTERIM APPLICATION NO.437 OF 2024
[CONDONATION OF DELAY]
WITH
INTERIM APPLICATION NO.438 OF 2024
[FOR STAY]
IN
FIRST APPEAL (ST) NO.35508 OF 2023

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Reliance General Insurance Company Limited ...Applicant

V/s.

Smt.Saraswati Kaluram Karande and Ors. ...Respondents

WITH
INTERIM APPLICATION NO.13974 OF 2024
[FOR WITHDRAWAL]
IN
FIRST APPEAL (ST) NO.35508 OF 2023

Smt.Saraswati Kaluram Karande and Ors. ...Applicants

V/s.

Ms.Rupali S. Gaikwad and Anr. ...Respondents

Mr.Shubham Saraf i/b. Mr.Pavan S. Patil:-	Advocate for Applicants in Interim Application No.13974 of 2024.
Mr.Akshay Kulkarni:-	Advocate for Applicant in Interim Application Nos.437 of 2024 and 438 of 2024.

CORAM : S. M. MODAK, J.

DATE : 24th OCTOBER 2024

P. C. :-

INTERIM APPLICATION NO.437 OF 2024

1. Heard learned Advocate Shri.Kulkarni for the Appellant Insurance Company and learned Advocate for the Claimants – Respondent Nos.1 to 5.
2. Though the Insurance Company appeared before the Claims Tribunal – Pune, they have not filed Written Statement. This Award is challenged by them.
3. There is a delay. It is opposed. For the reasons stated in the Application, the Application is allowed in terms of prayer clauses (a) and (b). **It is disposed of accordingly.**

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4. Heard.
5. Issue notice to the Respondents returnable on **3rd December 2024**. Learned Advocate waives notice for Respondent Nos.1 to 5. Memo of Appeal be served to him.
6. **Call Record and Proceeding.**
7. **Compilation be filed.**

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8. Heard both the sides.
9. This is an Application for withdrawal. Mr.Kulkarni vehemently argued that it is the case of fake insurance policy. Unfortunately, this was not brought on record because there was no say and cross-examination. This contention can be considered only if the matter is remanded back. Mr.Kulkarni can argue for remanding the matter.
10. As on today, certainly the Company can argue on the basis of insufficiency of evidence before the Tribunal. **Considering all facts, at this juncture, 50% withdrawal can be permitted.** Hence, order:-

ORDER

- (i) The Respondent Nos.1 to 5 are permitted to withdraw 50% of the deposited amount along with interest on furnishing an usual undertaking.
- (ii) The apportionment be made as per the Award.
11. In view of that, **Application is disposed of.**

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11. The amount is deposited. Stay be made absolute.
12. **Application stands disposed of.**

[S. M. MODAK, J.]