IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

FIRST APPEAL NO.553 OF 2024
WITH
INTERIM APPLICATION NO.7502 OF 2024
[FOR STAY]
IN
FIRST APPEAL NO.553 OF 2024

Reliance General Insurance Company Limited ...Appellant/Applicant

vs.

Annasaheb Ganpat Gaikwad and Anr. ...Respondents

WITH
INTERIM APPLICATION NO.9704 OF 2024
[FOR WITHDRAWAL]
IN
FIRST APPEAL NO.553 OF 2024

Annasaheb Ganpat Gaikwad and Anr. ...Applicant

In the matter between:-

Reliance General Insurance Company Limited ...Appellant

vs.

Annasaheb Ganpat Gaikwad and Anr. ...Respondents

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Ms.Shalini Shankar:-	Advocate for Appellant Insurance Company.
Mr.Amol Gatne:-	Advocate for Respondents.

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CORAM : S. M. MODAK, J.

DATE : 30th AUGUST 2024

P. C. :-

1. Heard learned Advocate for the Claimants and learned Advocate for the Appellant Insurance Company.

2. It is true that on 23rd August 2024, certain submission are recorded which are made by learned Advocate Shri.Gatne. Learned Advocate Ms.Shalini Shankar is having some reservation about those submissions and according to her, at her behest, the matter is not adjourned. She also raised a submission that earlier, it was not clear from the side of the Appellant whether to hear the withdrawal Application or the Appeal finally.

3. Learned Advocate Shri.Gatne on the point of withdrawal is also having some explanation to offer. According to him, on earlier dates, he has never sought for adjournment but matter was adjourned at the behest of the Respondent Insurance Company only. No purpose will be served by going into all these contentions. Ultimately, the Advocate is bound to follow the instructions given by his client.

4. Today, I have heard learned Advocate Shri.Gatne on the point of withdrawal. He has filed compilation of documents. It is taken on record. It is taken on record and marked "A" for identification.

5. In order to rebut the falsity of the stand of the Insurance Company, he invited my attention to the following documents:-

(a) The observations in Para No.22 (Page No.46) of the compilation. It talks about failure of the Opponents to prove a particular fact.

(b) The averments in the written statement filed by the Insurance Company and more specifically, Para No.3 which talks about non continuation of the insurance policy.

(c) The contents of written notes of arguments filed by the Insurance Company before the Claims Tribunal – Pune. According to him, the ground about non continuation of the insurance policy was not taken anywhere.

(d) Even, in the grounds of Appeal, this ground is not taken. That is why, he insisting upon 100% withdrawal. His submission is, at the most, if the Insurance Company succeeds in Appeal, there can be an order of pay and recover.

6. According to learned Advocate Ms.Shalini Shankar, the insured was still possessing a licence. He is a driver by occupation and as such, he is earning an income and there is no loss of income.

7. Learned Advocate Ms.Shankar is aware about the contention of Mr.Gatne. Still, she sought some time to take instructions from her client on the point of correspondence made by confirmation of insurance policy. Time is granted.

8. I have gone through the record in order to verify, whether notice is issued to Respondent No.2 – owner of the offending vehicle. Let, notice be issued to him returnable on **12th September 2024**. To be listed "**High on Board**".

9. The returnable date for service is 24th September 2024, the Claimants are at liberty to press for withdrawal on **12th September 2024**.

[S. M. MODAK, J.]