



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

CIVIL APPLICATION (CAS) NO.858 OF 2024
IN
SECOND APPEAL NO.225 OF 2024

Lalit s/o Jasrajbhai Patel
Vs.
Jadhavlal s/o Mavji Patel

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Ms. Rashi A. Deshpande, Counsel for the appellant.
Mr. L. B. Patel, Counsel for the appellant.

CORAM : URMILA JOSHI-PHALKE, J.
DATED : 14/11/2024

1. By this application, the respondent is seeking permission to withdrawal of the amount of Rs.20,00,000/- deposited by the appellant.

2. In view of the order passed by this Court dated 06.09.2024, the appellant was directed to deposit the amount of Rs.20,00,000/- within a period of one week from 06.09.2024, in view of the decision of the Hon'ble Apex Court in the case of **Shekhawati Art and Export Vs. United India Insurance Company Limited and others in Special Leave to Appeal No.(s) No.11233/2024 arising out of DBCMA No.753/2024 decided on 17.05.2024.**

3. The respondent has filed this application for withdrawal of the amount on the ground that the

decree is passed in his favour and he is entitled to receive the amount as a part payment against the said money decree.

4. Learned Counsel for the appellant submitted that there is every chance of success in the present appeal, and if the appellant succeeds in the present appeal, it would be difficult to recover the amount from the respondent, in view of that, she has no objection to permit the respondent to withdraw the amount 50% on undertaking.

5. In view of above, respondent is permitted to withdraw 50% of the amount subject to furnishing the undertaking by the respondent that in case, the appellant succeeds in the present appeal, he is under obligation to deposit the said amount for the satisfaction of the Court.

6. Civil application is disposed of.

SECOND APPEAL NO.225 OF 2024

1. By preferring this appeal, the appellant has challenged the order of the First Appellate Court passed in Regular Civil Appeal No.186/2022.

2. Learned Counsel for the appellant shall satisfy the maintainability of the Second Appeal by showing that the substantial question of law is involved in the present appeal.

(3)

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3. Stand over to 10.12.2024.

(URMILA JOSHI-PHALKE, J.)

Sarkate