

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

**CIVIL APPLICATION NO. 5184 OF 2015
IN
WRIT PETITION NO. 3796 OF 2014
WITH
CIVIL APPLICATION NO. 5185 OF 2015
IN
WRIT PETITION NO. 3744 OF 2014
WITH
CIVIL APPLICATION NO. 5186 OF 2015
IN
WRIT PETITION NO. 3741 OF 2014
WITH
CIVIL APPLICATION NO. 5187 OF 2015
IN
WRIT PETITION NO. 3733 OF 2014
WITH
CIVIL APPLICATION NO. 5188 OF 2015
IN
WRIT PETITION NO. 3743 OF 2014
WITH
CIVIL APPLICATION NO. 5189 OF 2015
IN
WRIT PETITION NO. 3745 OF 2014**

Maharashtra State Electricity
Transmission Company Ltd.
(EHV) Construction Division,
Through its Executive Engineer,
Aurangabad

...APPLICANT

versus

The Collector, Aurangabad
and others

...RESPONDENTS

.....

Mr. S.V. Advant, Advocate for applicant
Mr. S.G. Sangle, A.G.P. For respondent No. 1
Mr. U.B. Bilolikar Advocate for Respondents No. 3 to 7 in C.A.No. 5185 of 2015
Mr. Ajay Shinde, Advocate for respondents No. 3 to 7 in C.A. No. 5187 of 2015.
Mr. Rohile Rajesh, Advocate for respondents No 242 in C.A. No. 5184 of 2015
Mr. A.M. Mamdikar, Advocate for Respondents No. 4, 8, and 9 in C.A.No. 5186 of 2015

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CORAM : SUNIL P. DESHMUKH, J.

DATED : 8th JUNE, 2015

Order :-

1. The applicant has taken out these civil applications seeking restraint on the respondents from withdrawing the amount deposited by the applicant-petitioner in the respective writ petitions.
2. Learned single judge (Coram: N.W. Sambre, J.) of this court had disposed of said group of writ petitions under order dated 18th March, 2015 observing thus-

“8. A conjoint reading of the provisions of Section 67(2), (3) and (4) of the Act with that of Rules referred supra, this Court is of the opinion that the remedy of appeal is available to the present petitioner. In view thereof, the writ petitions stand dismissed.

9. Time consumed by the petitioner in prosecuting present petitions shall be taken into account while dealing with the issue of delay by the appellate authority.

10. If the appeal is filed within four weeks from today, the amount deposited by the petitioner shall be transmitted to the Tribunal upon intimation to that effect by the petitioner to this Court with the copy thereof to learned Counsel for respondents-land owners.

11. Failure to file appeal within time stipulated, intimation to that effect referred supra, shall entitle the present respondents to withdraw the amount deposited before this court.”

3. Learned counsel for the applicant submits that Special Leave Petitions have been preferred by the applicant within stipulated time i.e. within four weeks from the date of order and the Apex Court has issued notice to other side.

4. Learned counsel Mr. Advant submits that a civil application had been moved by one of the respondents in the matter before this court, for withdrawal of amount deposited by the applicant-petitioner. Subsequently, said civil application came to withdrawn, which is an indication of that though court has passed order on 18th March, 2015 and the court did not intend to pass absolute order giving liberty to the respondents to withdraw the amount.

5. In the course of submissions, learned counsel for the applicant purports to rely on the judgment in the case of *Manoj I Naik and Associates Vs. Official Liquidator* reported in (2015) 3 Supreme Court Cases 112, highlighting following portion of paragraph No. 6 thereof reading:

6. In the meanwhile, certain unwarranted, unhappy and uncalled for situation took place. The Official Liquidator filed a report before the learned Company Judge seeking permission to exclude certain plots from the original list and, accordingly, the learned Company Judge granted the extension of time. In our considered opinion, when the matter was sub judice before this Court, the learned Company Judge should not have dealt with the same regard being had to the fundamental concept of judicial discipline.”

I do not think that these observations would assist the applicant to carry forward its case, for seeking relief as has been sought in the present applications.

6. Learned counsel for respondents contend, taking into account submissions on behalf of the applicant, the court did not intend to pass absolute order about withdrawal of amount, it would be a matter seeking review of the order dated 18th March, 2015 passed by the learned single Judge of this court. However, applicant appears to be disinclined to make such an approach.

7. Learned counsel for respondents, go on to contend that the applicant, aggrieved by order dated 18th March, 2015 passed by learned single Judge of this court, has been before the Apex Court and the Supreme Court has been seized of the matter and as such, it was open for the applicant to seek interim relief before the Apex Court.

8. Learned counsel for applicant fairly concedes to that applications for interim relief have been filed before the Supreme Court, and in two matters, there has been express order of not staying the effect and operation of the order dated 18th March, 2015. He, however, purports to submit that though there is no express order in other matters yet propriety demands that the respondents should stay their hands from withdrawing the amount.

9. Looking at aforesaid, it cannot be overlooked that aggrieved by order dated 18th March, 2015 the applicant is before the Apex Court and has applied for interim relief.

10. In view of aforesaid, more particularly, when the Supreme Court is seized of the matter, I do not deem it appropriate to entertain the request made under present civil applications, and as such, civil applications stand rejected.

Sd/-
(SUNIL P. DESHMUKH, J.)

MTK