

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

**CIVIL APPLICATION NO.6892 OF 2014 IN
FIRST APPEAL NO.440/2008**

Kashinath Shankar Paherkar & Ors	.. APPLICANTS
Versus	
The Executive Engineer (Irrigation)	
Zilla Parishad Aurangabad & Anr.	.. RESPONDENTS

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Shri A.B.Kale, Advocate for applicants
Shri D.B.Pawar Adv. for respondent no.1

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CORAM : N.W.SAMBRE,J.
DATED : 1st JULY, 2015

ORDER :-

By order dated 20/8/2008, this Court has permitted the claimants to withdraw 25% of the amount awarded by Reference Court i.e. 50% (Rs.14,76,745/-) by furnishing bank guarantee and remaining 50% (25% of the amount) ordered by Reference Court by executing solvent surety.

2] This application is by applicants seeking liberty to withdraw bank guarantee pursuant to the said order.

3] Admittedly, the present appeal filed by acquiring body was dismissed in default on 28/2/2013 for non filing of paper book.

4] Till date, the appellants herein have neither moved any application for restoration of appeal nor any steps to that effect are initiated.

5] Learned counsel for the original appellants i.e. Shri D.B.Pawar prays that he be granted liberty to take steps to restore appeal. He is at liberty to do so.

6] So far as application for permission to withdraw the bank guarantee is concerned, in my opinion, it will be in the fitness of things that the application needs to be allowed as appeal was dismissed for non supply of paper book. Apart from above, in the interest of justice, award passed by Reference court to the extent of 75% is secured since 25% by taking the solvent surety from the applicants and the remaining 50% is not deposited by original appellants. As such present Civil Application stands allowed and disposed of.

7] In view of liberty sought by Shri Pawar for taking steps for restoration of appeal, it is hereby clarified that the condition of solvent surety is maintained for a period of six weeks from today and if the application is not filed, stay shall automatically stand resiled without back reference to the court.

(N.W.SAMBRE,J.)

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