

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION NO.754 OF 2015

IN

WRIT PETITION NO.9169 OF 2013

M/s Deepak Fertilisers and
Petrochemicals Corporation Ltd.

.. Applicant

IN THE MATTER BETWEEN

Maharashtra State Electricity
Distribution Company Ltd.

.. Petitioner

Versus

M/s Deepak Fertilisers and
Petrochemicals Corporation Ltd. and another

.. Respondents

Shri. Sandesh R. Shukla i/by M/s. Abhay Nevagi & Associates, for the
Applicant.

Mrs. Deepa Chavan with Shri. Nirav Shah i/by M/s. Little & Co., for
the Respondents (Original petitioners).

CORAM : R.M. SAVANT, J.

DATE : 17th APRIL, 2015

PC.

1. The above Civil Application has been filed by the Applicant
i.e. the original Respondent No.1 to the above Petition for withdrawal of
the amount of Rs.2,85,30,000/- deposited by the Petitioner pursuant to
the order dated 23.12.2013 passed in the above Petition by a Learned

Single Judge of this Court and pursuant to the extension of time granted to deposit the said amount vide order dated 24.12.2014. The said amount of Rs.2,85,30,000/- was directed to be deposited as a condition for the grant of stay, of the order passed by the Appellate Authority i.e. Chief Engineer, Electrical under Section 127 of the Electricity Act. The said amount of Rs.2,85,30,000/- was deposited with the Petitioner as a pre-condition which is prescribed by Section 127 for entertaining an Appeal filed by the consumer which in the instant case is the Respondent No.1. In an identical fact situation this Court in Civil Application No.3147 of 2013 in Writ Petition No.8453 of 2013 had granted identical relief which was sought by way of the said Civil Application. The reason for the same as mentioned in the order dated 30.01.2014 passed in the said Civil Application No.3147 of 2013 was that since the consumer i.e. Respondent No.1 herein has succeeded before the Appellate Authority i.e. the Chief Engineer, Electrical and since the amount was deposited with the original Petitioner MSEDCL as a pre-condition for filing of the Appeal and was not lying with the original Petitioner as an amount paid to it pursuant to any bill, the original Petitioner would be entitled to withdrawal of the said amount albeit on furnishing a Bank guarantee of the Nationalized Bank. The above Civil Application is therefore required to be allowed and is accordingly allowed in terms of prayer clause (a), however subject to the

Applicant furnishing a Bank Guarantee of a Nationalized Bank and the said Bank Guarantee being kept alive pending the above Petition. The Civil Application is accordingly disposed of.

[R.M. SAVANT, J]