

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
NAGPUR BENCH, AT NAGPUR.**

CIVIL APPLICATION (CAF) NO.113 OF 2015

IN

FIRST APPEAL STAMP NO.22435 OF 2014

(M.I.D.C., through its Chief Executive Officer, Amravati ..vs.. Prakash Dnyandeorao Patil and others)

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

Court's or Judge's orders

CORAM : Z.A. HAQ, J.

DATED : 16-1-2015

Heard Ms. A. Athaley, the learned Advocate holding for Shri M.M. Agnihotri for the applicant, Shri A.S. Mehadia, the learned Advocate for the non-applicant Nos.1 and 2 on caveat and Smt. B.P. Maldhure, the learned Assistant Government Pleader for the non-applicant No.3.

Though some necessary details are lacking in the application, considering the facts of the case and the fact that the non-applicants have not opposed the application inasmuch as the reply is not filed, the delay in filing the appeal is condoned. The civil application is allowed, however, on condition that the applicant shall pay the costs of Rs.2,000/- to the learned Advocate for the non-applicant Nos.1 and 2 and produce the receipt of it on the record of this appeal till 27-2-2015.

First Appeal Stamp No.22435 of 2014.

Taken up for admission by consent of the learned

Advocates for the respective parties.

Admit.

Shri A.S. Mehadia, the learned Advocate, waives service of notices on behalf of the respondent Nos. 1 and 2.

Smt. B.P. Maldhure, the learned Assistant Government Pleader, waives service of notice on behalf of the respondent No.3.

Civil Application (CAF) No.114 of 2015.

Heard Ms. A. Athaley, the learned Advocate holding for Shri M.M. Agnihotri for the applicant, Shri A.S. Mehadia, the learned Advocate for the non-applicant Nos.1 and 2 on caveat and Smt. B.P. Maldhure, the learned Assistant Government Pleader for the non-applicant No.3.

Shri A.S. Mehadia, the learned Advocate for the non-applicant Nos.1 and 2 submits that this Court while considering the appeal arising out of the Award/order passed in proceedings arising out of the same notification, has permitted the withdrawal of 50% of the amount on furnishing bank guarantee and the balance 50% of the amount is permitted to be withdrawn on furnishing solvent surety. Accepting the submissions made by the learned Advocate for the non-applicant Nos. 1 and 2, in my view, same yardstick is required to be applied in the present case. The applicant to deposit the amount as per the Award with the Registry of this Court

till 17-4-2015. If the amount is deposited within the stipulated time, the impugned Award shall not be executed till the decision of the appeal. If the amount is not deposited within the stipulated time, the interim order shall stand vacated and the non-applicant Nos.1 and 2 would be at liberty to execute the Award.

If the applicant deposits the amount as directed above, within the stipulated time, the non-applicant Nos. 1 and 2 are permitted to withdraw 50% of the amount on furnishing bank guarantee along with an undertaking that the bank guarantee shall be kept alive till the decision of the appeal and the affidavit shall be filed every year in that regard with the Registry of this Court. If the affidavit showing that the bank guarantee is not kept alive, the non-applicant Nos.1 and 2 shall redeposit the amount with the Registry of this Court. The applicant shall point out to the Registry of this Court any default on the part of the applicant in complying with this order. The balance 50% of the amount as per the impugned Award is permitted to be withdrawn by the non-applicant Nos.1 and 2 on furnishing solvent surety to the satisfaction of the learned Registrar (Judicial) of this Court.

The civil application is disposed in the above terms.

JUDGE