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IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.10206 OF 2015

Agriculture Produce Market Committee
A Body Constituted under section 12
of Maharashtra Agriculture Produce Marketing
(Regulation) Act, 1963,
Through its Chairman
Having its Registered Office at Jalgaon Road,
Jamner, District - Jalgaon

PETITIONER

VERSUS

1. Jeevan Vinayak Jagirdar
Age - 50 years, Occ - Proprietor and
Owner of Darshan Constructions, Jamner
R/o 60, Shivaji Nagar, Jalgaon Road,
Jamner, Taluka - Jamner
District - Jalgaon
2. K. G. Khadse and Associates
Through Harish K. Khadse,
Registered No.CA/2000/26439
Age - Major, Occ - Architect,
R/o Ashirwad, Holy Cross Covenant Road,
Akola
3. Sanjay Dayaram Lokhande,
Age - 50 years, Occ - Service and
Ex-Secretary of Agriculture Produce
Market Committee, Jamner
R/o Jamner, Taluka - Jamner
District - Jalgaon
4. Dagadu Vishnu Patil,
Age - 60 years, Occ - Ex President of
Agriculture Produce Market committee,
Jamner, R/o Chalisgaon, Taluka - Jamner
District - Jalgaon

RESPONDENTS

Mr. S. G. Chapalgaonkar, Advocate for the petitioner
Mr. K. B. Borde, Advocate for respondent No.1

Mr. S. S. Rathi, Advocate for respondent No.2
Mr. M.S.Deshmukh h/f Mr. D.B.Shinde, Adv for respondent No.3
Mr. K. M. Nagarkar, Advocate for respondent No.4

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WITH
CIVIL APPLICATION NO.15945 OF 2015
IN
WRIT PETITION NO.10206 OF 2015

Jeevan Vinayak Jagirdar
VERSUS
Agriculture Produce Market Committee
Jamner, District - Jalgaon & Others

APPLICANT

RESPONDENTS

.....
Mr. K. B. Borde, Advocate for the applicant
Mr. S. G. Chapalgaonkar , Advocate for respondent No.1
Mr. S. S. Rathi, Advocate for respondent No.2
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[CORAM : SUNIL P. DESHMUKH, J.]

DATE : 21st APRIL, 2016

ORAL JUDGMENT :

1. Rule. Rule made returnable forthwith and heard finally with consent of learned advocates for the parties.
2. Against order dated 17th August, 2015 upon Exhibit-62, in Special Civil Suit No.60 of 2011, wherein the defendant - petitioner was directed to deposit a sum of Rs.2,06,10,702/-, the petitioner - defendants has been before this court.
3. Under an interim order passed on 13th October, 2015, the petitioner - defendant was directed to deposit a sum of Rs.1,05,00,000/- in this court. Accordingly, it appears that the deposit has been made by the petitioner – defendant.

4. Learned advocate for the petitioner highlighted that the measurement and the so called admission of the amount to the extent as is being contended by the plaintiff- respondent, cannot be said to be by the legitimate body, which would govern the APMC and a body which has been holding on in the interregnum, as an *ad hoc* body has caused lot of damage to the APMC. It is in these circumstances, some proceedings have been recorded, pursuant to which the claim is made by the plaintiff – respondent. Learned advocate further submits that the order impugned in the present petition is an interlocutory order and is not with reference to the admission of entitlement of the plaintiff – respondent. The matter / suit will have to be decided on merits and the plaintiff-responent will have to prove his entitlement to said amount. It is being submitted that as a matter of fact the decision taken by the *ad hoc* body in respect of the plaintiff – respondent, is a complete turnaround from the stand which is appearing in the written statement to the suit filed by the plaintiff-responent. He, therefore, submits hat the impugned order is not tenable and deserves to be set aside.

5. On the other hand, Mr. Borde, learned advocate appearing for respondent – plaintiff states that while it emerges on record, on the face of it that the plaintiff is entitled to the claim in the

suit, in view of the proceedings, which have taken place, particularly, measurement and acceptance of the amount pursuant thereto. It is highly improper to contend that the proceedings are not by legitimate body. The acts are of APMC and would bind the petitioner. The petitioner is precluded from vacillating stands. He further urges to allow the plaintiff to withdraw the amount, for according to him, the bank is being issuing notices after notices for recovery of amount of loan availed by the plaintiff – respondent for completion of the contract work. He submits that almost double amount had been paid towards interest. The economic condition of the respondent – plaintiff has been rendered precarious. In the circumstances, he earnestly requests to allow the plaintiff – respondent to withdraw the amount deposited and that the respondent – plaintiff is ready to furnish security for the same.

6. Looking at the nature of contentions, although learned advocate for respondent-plaintiff earnestly requests for withdrawal of the amount, subject to security, such a request, at this stage, is difficult to be acceded to, on the background in which the matter has emerged before this court. In the fitness of things, it would be expedient that having regard to the stands taken by APMC, to proceed with the suit as expeditiously as

possible. The amount deposited in this court by the petitioner – defendant be transferred to the trial court and the trial court should direct the same to be invested in fixed deposit in a nationalized bank earning interest and its fate shall be decided upon decision on merits in the suit.

7. Special Civil Suit No.60 of 2011 pending before Civil Judge, Senior Division, Jalgaon accordingly, be proceeded with and be decided within a period of four months from the date of receipt of writ of this order. It is expected that the parties will co-operate for expeditious disposal of the suit. Non co-operation on either side will be viewed seriously.

8. In the circumstances, impugned order stands modified by which instead of figure "Rs.2,06,10,703/-", figure "Rs.1,05,00,000/-" is replaced.

9. Writ petition accordingly stands allowed. Rule is made absolute in aforesaid terms.

10. In view of disposal of the writ petition, civil application No.15945 of 2015 stands disposed of.

[SUNIL P. DESHMUKH, J.]