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***IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE SIDE JURISDICTION***

CIVIL APPLICATION NO. 1335 OF 2016

in

WRIT PETITION NO. 9563 OF 2015

Shree Chatrapati Shivaji Maharaj
Smarak Samiti, through President & Anr.

... Applicants.
(Orig.Petitioners)

V/s.

Smt. Sandhya Prabhakar Barfe and Ors.

... Respondents.

Mr. S.V. Sadavarte for the Applicants/Orig. Petitioners.

Mr. V.K. Bodhare i/b. A.M. Joshi for Respondent 1.

CORAM : N.M. Jamdar, J.

14 October, 2016.

Oral Order :-

By this Civil Application the order dated 14 January 2016 is sought to be recalled. By order dated 14 January 2016, a Rule was issue in the Petition and interim relief was granted subject to a deposit of 50% of back wages within period of eight weeks which the Respondent No.1 was entitled to withdraw on furnishing security to the satisfaction of the Registry. The Petition was taken up

on board in view of the urgency since the Respondent had filed contempt proceedings as inspite of the order of the School Tribunal the amount was not paid. The School Tribunal, by order dated 8 May 2015 had directed the Petitioners to re-instate the Respondents with full back wages.

2. The Civil Application is taken out contending that the Petitioners does not have any funds and administrator is appointed. The learned Counsel for the Applicant seeks to tender the account of the Petitioner – Management. It is submitted that as and when the Government will pay the amount to the Petitioners, the amount of 50% as directed will be deposited. Firstly, the Petitioners were fully heard when the Rule was issued and the interim relief was granted subject to deposit. If the amount is not deposited, it will be open to the Respondent to execute the decree. Since it is submitted that absolutely no property is left with the Petitioners, then even in the execution proceedings the Respondents will not have to deposit the amount and therefore, it is not necessary to continue any interim relief. The learned Counsel for the Petitioners states that the amount may be recovered from the trustees in the execution proceedings and therefore, it is necessary to continue the interim order. If that is the apprehension of the trustees, the trustees should make the arrangement to deposit the amount. That statement is not made.

3. In the circumstances, no case is made out for modification of the order dated 14 January 2016. Since the amount is not paid as directed, the interim relief is not continued. It will be open to the Respondents to execute the order passed by the School Tribunal.

4. Civil Application is rejected.

(N.M. Jamdar, J.)