

Sequeira

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

*APPEAL FROM ORDER NO. 1110 OF 2013
Along with
CIVIL APPLICATION NO. 1310 OF 2013*

The Institute of Cost Accountants
of India

... Appellant

V/s.

Pramod S. Dube & ors.

... Respondents.

Mr.Amit Jamsandekar i/b Sunil Nair, for the Appellant / Applicant.

Mr.Saket Mone i/b Vidhi Partners, for Respondent Nos.1, 2 and 5.

Mr.Jaydeep Raut a/w Mr.Prakash Kadam, for Respondent Nos.3 & 4.

*CORAM : N.M.Jamdar, J.
Monday, 1 August 2016.*

Oral Order :

Pursuant to the order passed on 14 July 2016 and 21 July 2016, parties held a joint meeting on 29 July 2016 to arrive at a consensus as what should be the interim arrangement pending the Suit.

2. The learned counsel for the parties state that minutes of the meeting dated 29 July 2016 have been signed by all concerned and the parties have agreed in the said meeting as to the modalities of the interim arrangement made, pending the Suit. At their request the minutes are taken on record and marked 'X'.

3. Minutes are reproduced for the sake of convenience.

A. Formation of “CMA Bhawan- Pune Committee” – The following will be the members

- 1. CMA Manas Thakur, President, The Institute of Cost Accountants of India*
- 2. CMA Sanjay Gupta, Vice President, The Institute of Cost Accountants of India*
- 3. CMA Kaushik Banerjee, Secretary, The Institute of Cost Accountants of India*
- 4. CMA Amit Apte, Central Council Member, The Institute of Cost Accountants of India*
- 5. CMA Niranjana Mishra, Central Council Member, The Institute of Cost Accountants of India*
- 6. CMA Neeraj Joshi, Western India Regional Council Member, The Institute of Cost Accountants of India*
- 7. CMA Anant Dhavale, Chairman, ICAI – Pune Chapter*
- 8. CMA Chaitanya Mohrir, Vice Chairman, ICAI- Pune Chapter*
- 9. CMA Amit Shahane, Secretary, ICAI- Pune Chapter*
- 10. CMA Meena Vaidya, Treasurer, ICAI- Pune Chapter*

CMA Anant Dhavale, Chairman ,ICAI – Pune Chapter will be the Convener of the Committee. CMA Amit Shahane, Secretary, ICAI – Pune Chapter will act as Member Secretary of the Committee.

B. Formation of “CMA Bhawan- Pune Advisory Committee” – The following will be the members

- 1. CMA Dr. Dhananjay V. Joshi, Former President, The Institute of Cost Accountants of India*
- 2. CMA Dr. Sanjay Bhargave, Former CCM, The Institute of Cost Accountants of India*

3. *CMA Pramod Dube, Former Chairman, ICAI- Pune Chapter*
4. *CMA Dr. Madhuvanti Sathe, Former Chairperson, ICAI- Pune Chapter*
5. *One person expert in civil engineering like Civil Engineer, Architect etc.*
6. *One renowned industrialist from Pune*
7. *One class one government official from department such as Income Tax, Excise etc.*
8. *One person from academics*
9. *Two Person of social repute and standing*

The Chairman of ICAI- Pune Chapter in consultation with the members of Advisory Committee will invite the dignitaries as mentioned above to join the Advisory Committee.

CMA Anant Dhavale, Chairman ,ICAI – Pune Chapter will be the Convener of the Committee. CMA Amit Shahane, Secretary, ICAI – Pune Chapter will act as Member Secretary of the Committee.

C. Observance of norms laid down by the Institute

ICAI- Pune Chapter will observe all norms laid down by the Institute regarding construction of Building.

D. Construction of CMA Bhawan – Pune

The Pune Municipal Corporation has sanctioned the building plan vide its sanction letter (Commencement Certificate) dated 21.03.2013 on the serial no CC/3963/12 and the Building will be constructed as per the approved plan.

E. Selection of Building Contractor

CMA Bhawan- Pune Committee in consultation with the Advisory Committee will select and appoint building contractor through the transparent process of Tendering or such other process.

F. Selection of various consultants required for completion of the CMA Bhawan – Pune

CMA Bhawan- Pune Committee in consultation with the Advisory Committee will select and appoint consultants such as qualified Civil Engineer, Structural Engineer, Plumbing consultants, Solar and Green Energy consultants, Acoustics consultants, Fire safety consultants, Air Circulation and air conditioning consultants, Interior Designing consultant and so on as may be required for the completion of CMA Bhawan through the transparent process.

G. Disbursement of payment

The Payments will be made to the building contractor only as per the certification from the appointed Civil Engineering Consultant on the basis of work completed.

H. Funding and Financial arrangements

Initially the funds for construction will be provided by ICAI- Pune Chapter. Appeal will be made to the Central Council for grant of funds as per the norms laid down by the Institute for acquisition of land / Construction of building by the Chapter. The ICAI – Pune Chapter has financial resources available with them with which two floors of the building can be completed. Accordingly depending upon the funds made available by way of Grant by Head Quarters, decision will be taken as to construction

of upper floors. ICAI- Pune Chapter will also be making Appeal to its members and other donors for collection of funds for the construction of building.

I. Reporting

From the Re- commencement of construction at end of every quarter i.e. September end, December end, March end and June end every year within a period of ten days a report will be submitted by ICAI- Pune Chapter to the Head Quarters as regard the progress of the construction, the funds spent during the quarter, the requirement of funds for the next quarter etc.

J. Maintenance of Accounts

Accounts will be maintained by ICAI – Pune Chapter separately for CMA Bhawan – Pune project. The accounts will be audited on half yearly basis and copy of Audited Statements of Accounts will be submitted by ICAI- Pune Chapter to Head Quarter within one month form the Half yearly period.

K. Bank Account

A separate bank account in a nationalized bank will be operated for CMA Bhawan- Pune, which will be operated by any two Office Bearers of ICAI – Pune Chapter.

L. Responsibilities of the Office Bearers of ICAI – Pune Chapter

The Office Bearers of ICAI – Pune Chapter will bear the responsibility of making various applications to concerned Government / Semi Government/ Government Departments/ Municipal Corporation or such other

statutory authorities etc. that may be required for completion of CMA Bhawan- Pune project and they will have the authority to sign applications, statements etc. as may be required from time to time.

M. Completion of the project

It is estimated that the CMA Bhawan- Pune project will be completed within a span of 24 months since the major task of getting the building plan approved by the Municipal Corporation is already through.

N. CMA Bhawan- Pune Present status

ICAI -Pune Chapter had performed foundation stone laying ceremony of new educational complex on 11Th April 2013 and had started the construction. ICAI – Pune Chapter has spent an amount of Rs.47,20,875 /- as per their Latest Annual Accounts for the period 2015-16. The Breakup of the expenditure is as follows -

<i>Sr. No.</i>	<i>Particulars</i>	<i>Rs.(in Lakhs)</i>
<i>1</i>	<i>Payment to Pune Municipal Corporation for plan passing, hardship charges etc</i>	<i>29.8</i>
<i>2</i>	<i>Payment to Architects for building plan, plan passing etc.</i>	<i>5.75</i>
<i>3</i>	<i>Security</i>	<i>2.75</i>
<i>4</i>	<i>Bhoomi Poojan</i>	<i>1.50</i>
<i>5</i>	<i>Building Construction contractor</i>	<i>2.00</i>
<i>6</i>	<i>Legal Fees</i>	<i>2.92</i>
<i>7</i>	<i>Other expenses</i>	<i>2.48</i>
	<i>Total</i>	<i>47.2</i>

The above expenditure has already been incurred and approved. ICAI – Pune Chapter, its Managing Committee Members and Authorized Representatives had carried out the CMA Bhawan – Pune project with utter good faith and in the interest of Institute, its Members and Students. Their efforts are also recognized hereby and it is expected that this team will work whole heartedly for the project of CMA Bhawan- Pune.'

4. The Appeal from Order is accordingly disposed of in terms of minutes of the meeting signed by all the parties which shall be the interim arrangement pending the Suit. It is clarified that this interim arrangement is without prejudice to the rights and contentions of the parties in the Suit. In case of any change in the composition of committees is required, due to passage of time or some other reasons, it is open to the parties to arrive at a change in composition by mutual consensus.

5. The Appeal from Order is accordingly disposed of in above terms. The Civil Application also stands disposed of.

6. Though the parties have agreed that it is only an interim arrangement, it is hoped and expected that this internal dispute in the Appellant organisation is resolved amicably, so that the Suit also is disposed of by mutual consent in the same spirit as shown in this Appeal.

(N.M.Jamdar, J.)