

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

902 CIVIL APPLICATION NO.7549 OF 2018
IN SAST/14744/2016

PRASHANT YUVRAJ KAWALE
VERSUS
THE EXECUTIVE ENGINEER (RURAL) MSED COMPANY LTD
NILANGA DIST LATUR AND ORS

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Advocate for Applicant : Ms. Dube Anjali
(Bajpai);
Mr. A. S. Shelke For Non-app Nos.1 To 3 (i.e.
appellants In CA)

CORAM : P.R.BORA, J.

DATE : 19th June, 2018.

PER COURT :

1) This is an application seeking withdrawal of the amount deposited by the appellants in pursuance of the decree passed by the court below.

2) The learned counsel for the applicant has prayed for permitting the withdrawal of the entire amount deposited, stating that two competent courts have decided the matter in favour of the present applicant. The learned

counsel further submits that the applicant is a poor agriculturist. In the alleged incident, he has lost his one hand, which has severely affected his earning capacity.

3) Learned counsel for the respondents has opposed for permitting such withdrawal. The learned counsel submits that substantial grounds are raised in exception to the judgments passed by the courts below and the appellants are in a position to point out that the alleged incident had occurred because of the gross negligence on part of the present applicant and as such, no liability can be fastened against the appellants.

3) I have perused the judgments passed by the courts below. Considering the submissions of both the learned counsel appearing for the parties, at this juncture, though it may not be possible as well as permissible to make any comment upon merits of the matter, it appears to me that ends of justice would be met if some amount is permitted to be withdrawn by the present applicant on his furnishing an

undertaking that in the event the appeal goes against him, he will re-deposit the said amount. Hence, the following order, -

ORDER

- i) The applicant - Prashant s/o Yuvaraj Kawale is permitted to withdraw an amount of Rs. 5,00,000/- (Rupees five lakhs) from the deposited amount on his submitting an undertaking to the satisfaction of the Registrar (Judicial) of this Court;
- ii) Balance amount be invested in Fixed Deposit Receipt in any nationalized Bank, initially for a period of three years and if so required for further period till disposal of the appeal.
- iii) The Civil Application thus stands partly allowed and disposed of.

(P.R.BORA)
JUDGE

bdv/