

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.9978 OF 2018

(M/s Reddy Associates Vs. Godawari Marathwada Irrigation
Development Corporation)

WITH WRIT PETITION NO.9982 OF 2018

WITH WRIT PETITION NO.9994 OF 2018

WITH WRIT PETITION NO.9995 OF 2018

WITH WRIT PETITION NO.9998 OF 2018

Mr.H.A.Joshi h/f Mr.J.N,Singh, Advocate for the petitioner.
Mr.S.G.Bhalerao, Advocate for the respondent.

(CORAM : Ravindra V.Ghuge, J.)

DATE : 22/10/2018

PER COURT :

1. This Court had passed an order on 03/09/2018 which reads
as under :-

“1 The Petitioners, in all these petitions, are aggrieved
by the orders passed by the learned Principal District Judge
dated 31.03.2018 and 16.09.2017, by which, the amounts
equivalent to 50% or more have been directed to be deposited in
the proceedings under Section 34 of the Arbitration and
Conciliation Act, 1996 filed by the Respondents herein.

2 It is stated that the Honourable Supreme Court in
**M/s Tripathi and Company vs. The Godawari Marathwada
Irrigation Development Corporation** in Petition for Special
Leave to Appeal Nos.13090/2017 and in **Manish vs. Godawari
Marathwada Irrigation Development Corporation** in Petition

*for Special Leave to Appeal Nos.11760-11761/2018, has ordered on 23.04.2018 and 16.07.2018 that 100% amount shall be deposited by the Respondents as money decrees are involved. Similar order passed by the Honourable Supreme Court on 02.04.2018 in Petition for Special Leave to Appeal No.3702/2018 in the matter of **M/s Shinde and Sons vs. Executive Director**, is also cited.*

3 *It is, therefore, contended that in none of the impugned orders, 100% amount has been directed by the learned Principal District Judge, to be deposited.*

4 *Issue notice before admission to the Respondents returnable on 19.10.2018.*

5 *The Petitioners shall remove all office objections on or before 24.09.2018, failing which, the petition in which the objections are not removed shall stand dismissed without reference to the Court on 25.09.2018.”*

2. Learned Advocate for the respondent/Corporation makes a specific statement that the order of the Hon'ble Apex Court dated 16/07/2018 observing that 100% deposit in money matters, should be ordered by this Court, may not be applicable to these 5 cases for the reason that in the matters before the Hon'ble Apex Court, there was a complete adjudication of the dispute. In the instant matter, there has been no adjudication as the proceedings are pending before the learned Principal District Judge. He further submits that in the

cases before the Hon'ble Apex Court, the contractor had completed the contract. In the instant case, these petitioners have completed only 20% work and have thereafter failed in acting in terms of the contract. Consequentially, the respondent / Corporation had to terminate the contract and enter into a fresh contract with another contractor since a public project was in jeopardy. It is by the conduct of these petitioners that they compelled the Corporation to invite a new contractor.

3. Considering the above, since the Corporation has already deposited 50% of the amounts as directed by the learned Principal District Judge and which amount has already been withdrawn by the petitioners, there shall be no orders for the present.

4. Considering the above and keeping in view that there has not been any judicial adjudication as regards the claims of the petitioner, the order passed by the Hon'ble Apex Court dated 16/07/2018 in which matter there was a judicial adjudication of the dispute after which the matter reached the Hon'ble Apex Court, cannot be cited in these cases. Had these cases come before this Court after a judicial adjudication before the learned Principal District Judge, this Court would have dealt with the matter keeping in view the order of the

Hon'ble Apex Court dated 16/07/2018.

5. As such, these petitions are disposed of and the learned Principal District Judge is directed to decide the pending proceedings as expeditiously as possible, and preferably on or before 28/02/2019.

(Ravindra V.Ghuge, J.)