

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

CIVIL APPLICATION NO. 11566 OF 2018 IN SA/59/2006

MAHARASHTRA STATE ELECTRICITY BOARD THRO. EXECUTIVE
ENGINEER DHULE

VERSUS

SINDKHEDA TALUKA SHETKARI SAHAKARI SANGH LTD.

Advocate for Applicant : Mr. Anil S. Bajaj

Advocate for Respondent/Non applicant: Smt. Vaishali Patil-Jadav

CORAM : V.L. ACHLIYA, J.

DATED : 19th SEPTEMBER, 2018

ORDER :-

1. Heard learned counsel for applicant and respondent. Perused the orders passed in Second Appeal No. 59 of 2006 dated 15-09-2009 and 24-03-2011.

2. In brief, it is the contention of learned counsel for the applicant that applicant had filed suit for recovery towards dues of electricity against respondent. The suit was instituted in the name of Maharashtra State Electricity Board. Subsequently, the Maharashtra State Electricity Board bifurcated into three companies, based upon its working such as Generation, Distribution and Transmission of electricity. The claim in suit pertains to the distribution of electricity. In view of bifurcation of Maharashtra State Electricity Board, the present claim is prosecuted by the Maharashtra State Electricity Distribution Company Limited ("MSEDCL"), which deals in business of distribution of electricity. It is submitted that the suit filed by appellant - plaintiff was decreed by the trial Court. The appeal filed by respondent came to be dismissed by the Appellate Court. Being aggrieved, the respondent had preferred a Second Appeal, which came to be registered as Second Appeal No. 59

of 2006.

3. By order dated 15-09-2009, this Court (Coram: R. M. Borde, J.) has passed conditional order directing the respondent to deposit Rs. 1,00,000/- (Rupees One Lakh only). Pursuant to said order, the respondent has deposited the amount of Rs.1,00,000/- (Rupees One Lakh only). Later-on, the Second Appeal came to be disposed of by this Court (Coram: S.V. Gangapurwala, J.) vide Order dated 24-03-2011. While dismissing appeal, this Court has observed that in view of dismissal of the Second Appeal, the respondent - MSEDCL is entitled to withdraw the amount deposited along with accrued interest. In this background, the learned counsel for applicant urged to allow the applicant to withdraw said amount deposited by respondent.

4. Learned counsel for respondent submits that in view of dismissal of appeal, the appropriate orders may be passed for withdrawal of the amount by directing the applicant to adjust the same towards decretal amount.

5. On due consideration of the submissions advanced in the light of the orders passed dated 15-09-2009 and 24-03-2011, in Second Appeal No. 59 of 2006, I am of the view, the applicant is entitled to withdraw the amount. Hence, the application is allowed in terms of prayer clause "B".

6. The Civil application stands disposed of in above terms.

Sd/-
(**V.L. ACHLIYA, J.**)