

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

**CIVIL APPLICATION NO. 385 OF 2018
IN
CIVIL APPLICATION NO. 530 OF 2017
IN
FIRST APPEAL NO. 2514 OF 2016**

**BABU SULEMAN SAYYED – DIED
THR. HIS L.Rs. MAIDABEE BABU
SAYYED & ORS.**

VERSUS

THE STATE OF MAHARASHTRA & ANR.

WITH

**CIVIL APPLICATION NO. 387 OF 2018
IN
CIVIL APPLICATION NO. 278 OF 2017
IN
FIRST APPEAL NO. 2511 OF 2016**

**VITHOBA RAMJI PITALE – DIED
THR. HIS L.Rs. NARAYAN VITHOBA
PITALE & ORS.**

VERSUS

THE STATE OF MAHARASHTRA & ANR.

WITH

**CIVIL APPLICATION NO. 388 OF 2018
IN
CIVIL APPLICATION NO. 282 OF 2017
IN
FIRST APPEAL NO. 2508 OF 2016**

CHANDAR MARUTI PITALE & ANR.

VERSUS

THE STATE OF MAHARASHTRA & ANR.

WITH

**CIVIL APPLICATION NO. 396 OF 2018
IN
CIVIL APPLICATION NO. 527 OF 2017
IN
FIRST APPEAL NO. 2516 OF 2016**

VITHAL MAHADA WALSE – DIED
THR. HIS L.Rs. RUKMINI VITHAL
WALSE & ANR.

VERSUS

THE STATE OF MAHARASHTRA & ANR.

WITH

**CIVIL APPLICATION NO. 386 OF 2018
IN
CIVIL APPLICATION NO. 280 OF 2017
IN
FIRST APPEAL NO. 2512 OF 2016**

KONDIBA NAMA GAUTAM – DIED
THR. HIS L.Rs. LAKSHMIBAI KONDIBA
GAUTAM & ORS.

VERSUS

THE STATE OF MAHARASHTRA & ANR.

WITH

**CIVIL APPLICATION NO. 397 OF 2018
IN**

**CIVIL APPLICATION NO. 283 OF 2017
IN
FIRST APPEAL NO. 2509 OF 2016**

NARHAR KISHANRAO KULKARNI

VERSUS

THE STATE OF MAHARASHTRA & ANR.

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Mr. V.D.Hon, Senior Advocate i/b

Mr. Ameet S.Deshpande, Advocate for Applicants.

Miss. S.S.Raut, A.G.P. for R – 1 – State.

Mr. S.S.Dande, Advocate for R – 2.

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**CORAM : SUNIL P. DESHMUKH &
P.R.BORA, JJ.**

DATE : 29th JANUARY, 2018

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ORAL ORDER :

1. At the out-set, learned Senior Advocate on instructions states that the Civil Applications are confined and restricted to only prayer clause 'B' and seek liberty for making appropriate application for relief in terms of prayer clause 'C'. The request accordingly is granted.

2. The applications have been preferred since registry of this Court has been reluctant to release the amount pursuant to the order passed by this Court on 24/03/2017 requiring the

applicants to furnish bank guarantee of nationalized bank, it being its usual practice. Learned Senior Advocate Mr. V.D.Hon states that the withdrawal allowed on furnishing bank guarantee as referred to in clause (ii) of Order dated 24/03/2017 under para No. 5 is being rendered illusive since bank guarantee of a nationalized bank is being insisted upon. The nationalized banks are requiring the applicants to deposit equal amount to issue bank guarantee. He submits that as such modification is being sought in the order and request is made in the application that bank guarantee of scheduled bank or multi State co-operative bank be accepted for withdrawal of amount pursuant to paragraph 5 (ii) of order dated 24/03/2017. Learned counsel further points out that such resilience has been allowed under the order dated 26/09/2017 by learned Hon'ble Judge of this Court in Civil Application No. 11685 of 2017.

3. Learned counsel Mr. Dande appearing for M.I.D.C. however has reservations about the bank guarantee of a scheduled bank or multi State co-operative bank stating that there is nothing wrong to insist upon a bank guarantee of nationalized bank according to practice and further submits that bank guarantee shall be a continuing bank guarantee till the final decision is rendered in the Appeal.

4. Perusal of the order dated 24/03/2017 under clause (ii) of paragraph No. 5 does not refer to any particular category of banks of which guarantee should be given. Having regard to circumstances that the applicants' applications for securing bank guarantee of nationalized bank being not responded to, if the multi State co-operative bank or scheduled bank offers a continuing bank guarantee till rendition of final decision of the First Appeal for being honoured, the same may be accepted in compliance of clause (ii) of paragraph No. 5 of order dated 24/03/2017.

[P.R.BORA]
JUDGE

[SUNIL P. DESHMUKH]
JUDGE