

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

915 CIVIL APPLICATION NO. 390 OF 2018
IN ARBA/5/2017
WITH CA/333/2018 IN ARBA/6/2017
WITH CA/392/2018 IN ARBA/7/2017

SATISH SITARAM DESHMUKH
VERSUS
THE GOVT. OF MAHARASHTRA

...
Advocate for Applicant : Shri Gawali Amol K.
Advocate for Respondent : Shri Solshe V.C.

...
CORAM : RAVINDRA V. GHUGE, J.
Dated: August 24, 2018

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PER COURT :-

1. Heard the learned Advocates for respective sides.
2. I have considered the submissions of the learned counsel for the original appellant, who has relied on the affidavit-in-reply filed on 8.3.2018 for opposing these Civil Applications.
3. Learned counsel for the applicant / respondent in the appeal submits that if he is permitted to withdraw 50% of the deposited amount keeping in view that the award is in his favour as well as the impugned judgment upholds his entitlement, the appeal could be remitted to the learned Principal District Judge to be decided afresh under Section 34 of the Conciliation and Arbitration Act. In any case, he prays for withdrawal of the amounts deposited since the contract performed by him dates back to 1995-96.

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4. Learned Advocate for the appellant / establishment submits that he cannot consent for a remand for a decision afresh under Section 34 of the said Act. He submits that the bills raised by the applicant were not in conformity with the contract, under which he claims to have performed improvement of the canal. He, therefore, should not be permitted to withdraw any amount.

5. Having considered the submissions of the learned Advocates recorded as above, I find that an equitable order should be passed by permitting the applicant to withdraw 50% of the actual amount deposited by the appellant in this Court in all these three appeals. As such, these three civil applications are partly allowed with the following directions:-

(A) The applicant is permitted to withdraw 50% of the actual amount deposited by the appellant in this Court by tendering an affidavit / undertaking that if an adverse order is passed against him in the three appeals, he would redeposit the amount to which he is not entitled to within six weeks from the date of such adverse order.

(B) A recent photograph, recent address proof and a copy of the income tax PAN card shall be deposited in this Court

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along with the undertaking / affidavit for withdrawing the
amounts as directed above.

(C) The three appeals bearing Nos.5, 6 and 7 of 2017 be
listed for final hearing in the weekly final hearing board,
commencing from 3.12.2018.

Ajay
Kishanrao
Losarwar

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signed by Ajay
Kishanrao
Losarwar
Date:
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(RAVINDRA V. GHUGE, J.)

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