

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION**

WRIT PETITION (L) NO.3864 OF 2018

M/s Guju Ads. Through Sole Proprietor
Mr.Bhavesb Bhide

.... Petitioner

versus

Maharashtra State Road Development
Corporation & Ors.

... Respondents

.....

- Mr.Anuj Desai a/w Mr.Ajit Singh i/b. APS Law Associates, Advocate for Petitioner.
- Mr.Prakash P. Chawan i/b. Ravindra R. Chile for Respondent No.1.
- Ms.Maya Majumdar, Advocate for Respondent No.2.
- Mr.Prakash Mulky, Advocate for Respondent No.3.

**CORAM : B. P. DHARMADHIKARI &
SARANG V. KOTWAL, JJ.**

DATE : 21st NOVEMBER, 2018.

P.C. :

1. Heard respective Counsel. Perused the bank guarantee, particularly clause 38.1 and 38.4. Also perused letter dated 20/10/2018 sent by Respondent No.1 to the Petitioner.
2. It is to be noted that the said letter dated 20/10/2018 is produced before this Court at the time of hearing and has been looked into because of no objection given by the Petitioner.

3. Contention of the Petitioner is that the performance security could have been invoked only after giving Petitioner opportunity in terms of prayer clause 38.4.
4. Communication dated 20/10/2018 in last paragraph, it has clearly given that opportunity to Petitioner. Not only this, it appears that in another Writ Petition i.e. the Writ Petition No.3091/18 filed by proprietor of present Petitioner, Petitioner Bhavesh Prabhudas Bhinde made a statement to clear the dues of Respondent No.1 and accordingly undertaking has been given. In view of communication dated 20/10/2018 part payment cannot be viewed as compliance of demand made by Respondent No.1.
5. As such, we do not see anything wrong with the action of invoking performance security. Hence Writ Petition rejected. No order as to costs.

(SARANG V. KOTWAL, J.)

(B. P. DHARMADHIKARI, J.)