

FARAD CONTINUATION SHEET No.  
IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
NAGPUR BENCH AT NAGPUR

**ARBITRATION APPEAL NO. 38/2017**

(M.S.P.G.C.L., CHANDRAPUR VERSUS VINOD MEGHRAJ MASSAND & ANOTHER)

Office Notes, Office Memoranda of Coram,  
 appearances, Court's orders of directions  
 and Registrar's orders

Court's or Judge's orders

Shri G.E. Moharir, counsel for appellant.  
 Shri A.R. Wagh, counsel for R-1.

**CORAM : A.S. CHANDURKAR, J.**

**DATE : OCTOBER 26, 2018.**

**C.A.M. NO. 19/2018.**

This application has been moved by the respondent no.1 in the appeal seeking permission to withdraw the amounts deposited by the appellant as a condition for staying the execution of the Award in question.

The sole Arbitrator passed his Award on 29.11.2010 granting an amount of Rs.1,56,12,522/- in favour of the respondent no.1 herein as to claim nos.5, 7, 8 and 10. In the present appeal, challenge has been raised to claim nos.7, 8 and 10. As regards claim no.5, the respondent no.1 has filed Arbitration Appeal No.37 of 2017.

In the application, it is prayed that since the Award has been passed in favour of the respondent no.1, he be permitted to withdraw the amount deposited as he has been held entitled to the same. It is submitted that the learned Judge while deciding the proceedings under Section 34 of the Arbitration and Conciliation Act, 1996 has confirmed the Award to the extent of claim nos.7, 8 and 10.

On behalf of the appellant, it is submitted that as the Award is under challenge, the request as made for seeking permission to withdraw the amount does not deserve to be granted. If that request is granted, the interest of the appellant deserves to be protected. In that regard, reference is made to the decision in *National Highways Authority of India Versus NCC-KNR (JV)* [2016 (1) ALR 511].

Perused the judgment under challenge as well as the decision referred to by the learned counsel for the appellant.

The respondent no.1 is permitted to withdraw an amount of Rupees Fifty Lakhs subject to furnishing bank guarantee for a period of one year. Similarly, in the event the appeal filed by the appellant herein is allowed or the amount as awarded is reduced, the respondent no.1 shall refund the amount to that extent alongwith simple interest at 15% per annum, which interest has been awarded by the Arbitrator in the Award dated 29.11.2010.

Civil application is allowed in aforesaid terms and disposed of.

**JUDGE**

APTE