

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

**965 CIVIL APPLICATION NO.7032 OF 2019
IN FAST/21799/2018**

**SUBHASH KASHINATH PATIL
VERSUS**

EXECUTIVE ENGINEER, M.I.W. JALGAON AND ORS

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Advocate for Applicant : Mr. Patil Vijay B.
Advocate for Respondent No.1 : Ms. Vaishali D.
Jadhav

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CORAM : SMT. VIBHA KANKANWADI, J.

DATE : 21st JUNE 2019

ORDER :

1. Present application has been filed for withdrawal of the amount which has been deposited by respondent No.1. It has been contended that at this stage, only 75% of the decretal amount has been deposited. The learned Advocate for the applicant has objection for deposit of 75% of the decretal amount by respondent No.1. However, since the present application is filed for withdrawal of amount which has been deposited, that point cannot be gone into. So also, the learned Advocate for respondent No.1 submits that if the amount is allowed to be withdrawn, then it would be difficult for respondent No.1 to recover the same. It will not be out of place to mention here that as it appears from the submissions, those have been made, that even the original claimant has filed appeal for enhancement, so also the appeal in which amount has

been deposited by respondent No.1, is challenging the quantum. Under such circumstance, definitely, case is made out for partial withdrawal of the amount and that should be from whatever has been deposited in this Court.

2. In view of the above, the applicant is allowed to withdraw 50% of the amount that is deposited in this Court by filing an undertaking that he would make good of that amount, if at all directed in that respect at the time of disposal of the First Appeal.

3. Civil Application stands disposed of.

(Smt. Vibha Kankanwadi, J.)

Shubham/