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

**CIVIL APPLICATION NO.13123 OF 2018
IN
WRIT PETITION NO.12385 OF 2017
WITH
WRIT PETITION NO.5181 OF 2018**

Sayyed Abdul Mannan,
Age: 57 years, Occu: Agricultural,
R/o Bhaldarpura, Beed & ors.

..APPLICANTS

VERSUS

Shahjadibi w/o Babumiyan Sayyad,
Age: 65 years, Occu: Household,
R/o. Mominpura, Beed,
Tq. and Dist. Beed & ors.

..RESPONDENTS

Mr S. S. Kazi, Advocate for applicants;
Mr D. G. Nagode, Advocate for respondent No.12;
Mrs M. A. Deshpande, A.G.P. for respondent No.13;
Mr H. V. Tungar, Advocate for petitioner in W.P.

**CORAM : PRASANNA B. VARALE
AND
S. M. GAVHANE, JJ.**

DATE : 11th February, 2019

ORAL ORDER:

Heard Mr Kazi, learned Counsel appearing on behalf of the applicants.

2. The submission for prayer in the application, namely, vacation of interim order granted by this Court is, the petitioners, who have approached this Court lost the battle in the Civil Court. Learned Counsel for the

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applicants orally submitted before us that the applicants are the rightful claimants and beneficiaries whereas the respondents have no right to seek any compensation. He, by oral submissions admitted that the first installment of the compensation to the tune of rupees one Crore is received by these applicants (respondents in writ petition).

3. It may be necessary for us to refer to the sequence of events formed in the order sheet. The petition was before this Court on 10th October, 2017. The Division Bench of this Court was pleased to issue notice, making the same returnable on 21st November, 2017. On 21st December, 2017, learned Counsel for respondents in writ petition (applicants herein), on instructions submitted before this Court that the respondents have received compensation amount.

4. Now at this very juncture, we may state that this submission made before this Court on 21st December, 2017 runs contrary to today's submission of learned Counsel for the applicants that the applicants have received certain amount of compensation which is first installment of the compensation. Learned Vacation Judge, by assigning reasons granted interim relief on 18th May, 2018. The Division Bench of this Court, on 18th June, 2018, while considering the motion for continuation of interim orders, observed that learned Counsel for the petitioner intimated learned Counsel for respondent Nos.3 to 7 that he has requested this Court for continuation

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of interim relief and thus, the petition is circulated. As such, the matter was kept at 2.30 p.m. Needless to state that at 2.30 p.m., as the Counsel for respondents could not make himself available before this Court and the Division Bench extended operation of interim orders for further period of one week and then it again continued on 26th June, 2018. The application was again circulated before this Court on 29th October, 2018 and this Court of which one of us was a member (Prasanna B. Varale, J) was pleased to pass following order :-

"Post the petitions as well as application seeking vacation of interim relief for further consideration on 5th December, 2018.
Interim relief, if any to continue till next date"

5. Now, considering these events, we are of the opinion that when learned Vacation Judge passed the order assigning reasons and when learned Counsel for the petitioner approached this Court for continuation of interim orders, at that point of time, learned Counsel for respondents was not present, as such, interim orders continued till date. Learned Counsel for the applicants himself submitted before us that the applicants have received certain amount towards compensation.

6. Learned Counsel for the applicants made a statement before us that earlier statement made before this court that the applicants have received entire amount of compensation was erroneously made and it was only to

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submit before this court that first installment of the compensation is received.

7. The submission, whether the petitioners are neither rightful claimants nor are rightful beneficiaries can be certainly the submission on merits, which can be considered at the stage of deciding writ petition. At present, we see no reason to vacate the interim orders passed by this Court and it is continued further. The application, in our opinion, being meritless, deserves to be dismissed and the same is accordingly dismissed. The petitions to come up for consideration/hearing in their usual turn.

Needless to state that in view of dismissal of civil application, interim order to continue.

(S. M. GAVHANE, J.)

(PRASANNA B. VARALE, J.)

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