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

**CIVIL APPLICATION NO.14920 OF 2017
IN
CIVIL APPLICATION NO.9606 OF 2016
IN
FIRST APPEAL NO.1939 OF 2011**

The Vice Chancellor,
Marathwada Agricultural University,
Parbhani, Tq. & Dist. Parbhani ..APPLICANT

Versus

Dilip s/o Gangaram Aradwad and anr. ..RESPONDENTS

**WITH
CIVIL APPLICATION NO.14921 OF 2017
IN
CIVIL APPLICATION NO.9602 OF 2016
IN
FIRST APPEAL NO.1938 OF 2011**

The Vice Chancellor,
Marathwada Agricultural University,
Parbhani, Tq. & Dist. Parbhani ..APPLICANT

Versus

Umesh s/o Raosaheb Gurme and anr. ..RESPONDENTS

**WITH
CIVIL APPLICATION NO.14922 OF 2017
IN
CIVIL APPLICATION NO.9605 OF 2016
IN
FIRST APPEAL NO.1970 OF 2011**

The Vice Chancellor,
Marathwada Agricultural University,
Parbhani, Tq. & Dist. Parbhani ..APPLICANT

(2)

Versus

Surekha w/o Raosaheb Gurme and anr. ..RESPONDENTS

**WITH
CIVIL APPLICATION NO.14923 OF 2017
IN
CIVIL APPLICATION NO.9600 OF 2016
IN
FIRST APPEAL NO.1971 OF 2011**

The Vice Chancellor,
Marathwada Agricultural University,
Parbhani, Tq. & Dist. Parbhani ..APPLICANT

Versus

Babu s/o Gangaram Aradwad and anr. ..RESPONDENTS

**WITH
CIVIL APPLICATION NO.14924 OF 2017
IN
CIVIL APPLICATION NO.9601 OF 2016
IN
FIRST APPEAL NO.1969 OF 2011**

The Vice Chancellor,
Marathwada Agricultural University,
Parbhani, Tq. & Dist. Parbhani ..APPLICANT

Versus

Balaji s/o Raosaheb Gurme and anr. ..RESPONDENTS

Mr Eknath Sawant & Mr S. P. Kausalye, Advocates for the applicant
Mr V.D. Gunale, Advocate for respondent No.1
Mrs A. V. Gondhalekar, A.G.P. for respondent No.2

**CORAM : PRASANNA B. VARALE
AND
SUNIL K. KOTWAL, JJ.**

DATE : 13th June, 2019

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ORAL ORDER:

Heard Mr Sawant, learned Counsel along with Mr Kausalye, learned Counsel appearing on behalf of the applicant i.e. the Vice Chancellor, Marathwada Agriculture University, Parbhani, Mr Gunale, learned Counsel for respondent No.1 and learned Asstt. Govt. Pleader for respondent No.2.

2. The applicant is before this Court by way of present applications seeking modification of the order dated 15th September, 2017 in a bunch of applications bearing Civil Application No.9602 of 2016, in First Appeal No.1938 of 2011 along with other connected civil applications. The Division Bench of this Court, by an order dated 15th September, 2017, directed the applicants i.e. respondent No.1 in first appeals to deposit balance 50% of the enhanced amount in this Court within stipulated period.

3. It is an admitted fact situation that while admitting the appeals, this Court directed acquiring body to deposit 50% of the award amount and the said amount be deposited in this Court. It is also not in dispute that the amount of 50% so deposited by the applicant in this Court was withdrawn by the respondents-claimants under the order of this Court.

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The Division Bench of this Court, on 17th July, 2015 passed order in bunch of applications, namely, Civil Application No.7600 of 2015 in First Appeal No.1971 of 2011 and other connected civil applications.

4. The basic ground raised in the present applications seeking modification of the order dated 15th September, 2017 is of not having an opportunity of hearing to the applicants.

5. Though certain other contentions are also raised in the applications, the thrust of submission of Mr Sawant, learned Counsel for the applicant was on the ground of no opportunity of hearing. This ground reflects in the applications at para No.4. In counter to this ground, a statement is made in the affidavit-in-reply filed on behalf of respondent No.1 - claimant in para 6 of the reply that copy of the said civil application was served on the applicant in the month of June, 2016. The said applications were heard from time to time initially by the learned Single Judge and subsequently by the Division Bench. As per the directions of the Division Bench of this Court, the matter was placed before the appropriate Court. The name of the advocate of the applicant was shown on the cause list. However, learned Counsel failed to attend the matter before this Court. In support of the statement, respondent No.1 - claimant also placed on record a copy of the cause list.

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6. An opportunity of hearing, being raised as a core issue and on the backdrop of the contentions raised, we have gone through a copy of the cause list. Perusal of the cause list shows that Civil Application No.9602 of 2016 was placed before the Division Bench on 1st September, 2017. The Division Bench was pleased to pass order "Place before the appropriate Bench".

7. On the backdrop of aforesaid facts, we thought it fit to peruse the order sheet and the office record. As stated above, on 1st September, 2017, the Division Bench was pleased to pass order "Place before the appropriate Bench". Thus, office record shows that the application was sought to be circulated by a praecipe/circulation note on 8th September, 2017. A circulation was granted on 15th September, 2017. Though the circulation was granted on 15th September, 2017, no intimation to the other side was given either of seeking circulation by a praecipe or circulation of the matter on 15th September, 2017.

8. Perusal of the application also supports the submission of Mr Sawant, learned Counsel for the applicants that the copies of the applications were served sometime in month of June 2016 and thereafter the matter was placed on 1st September, 2017 and thereafter

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no intimation is provided to the learned Counsel appearing for the applicant - acquiring body.

9. Mr Sawant, learned Counsel for the applicant was also justified in making submission before us that the applicant is a public body and as such, it was necessary for the Counsel to seek instructions to contest the application, namely, Civil Application No.9602 of 2016 and other connected applications and without instructions, he would not have been in a position to advance the submissions before this Court.

10. Mr Sawant, learned Counsel for the applicant also submitted before us that his anxiety is of being heard and after hearing the applicant, an order is passed by this Court, the applicant would abide by the same and they are duty bound to follow the order of this Court.

11. At the cost of repetition, we state that the record supports the submissions of learned Counsel for the applicant that the applicant had no opportunity of hearing to contest the applications, which were circulated before this Court on 15th September, 2017. As such, learned Counsel for the applicant has made out a case for modification of the order. Thus, the applications are allowed in terms of prayer clause (B) and disposed of accordingly.

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12. The Civil Application No.9606 of 2016 and other connected civil applications be posted before the appropriate Bench for hearing the parties. Needless to state that the parties are at liberty to advance their submissions and raise the contentions before the Court.

(SUNIL K. KOTWAL J.)

(PRASANNA B. VARALE, J.)

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