

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

CAO NO. 266/2019 IN XOB NO. 95 OF 2018
IN FIRST APPEAL NO. 220 OF 2017

(The Maharashtra Industrial Development Corporation thr. its Executive Engineer, Lohara, MIDC Area, Tq. & Dist. Yavatmal vs. Laxman s/o Mahadeo Borkhade & Ors.)

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

Court's or Judge's orders.

**CORAM : SUNIL B. SHUKRE &
S.M. MODAK, JJ.
FEBRUARY 27, 2019.**

Heard Shri R.D. Bhuibhar, learned counsel for the applicant/ original appellant and Mrs. S.S. Jachak, learned AGP for respondent Nos. 2 & 3.

On going through the judgment of the Reference Court, at this stage, we do not find prima facie any unjustness or arbitrariness in the approach adopted by the Reference Court and, therefore, we are of the view that this application deserves to be allowed conditionally.

Civil Application is allowed. The claimant is permitted to withdraw the amount of Rs.1,59,69,899/- together with accrued interest, if any, on the condition that for the 75% of the amount permitted to be withdrawn, the claimant shall furnish a usual undertaking and for the remaining 25% of the amount, the claimant shall furnish solvent surety to the satisfaction of the learned Registrar (Judicial).

Civil Application No. 266 of 2019 is disposed of accordingly.

PURISIS STAMP NO. 16916 OF 2018

Heard.

There is a pursis filed on record which is accompanied by calculation sheets. It shows that the amount of Rs.33,00,614/- has not been deposited by the acquiring body/ cross objector in compliance with the Award of the Reference Court. Though it is orally submitted by the Cross Objector that these calculations are wrong, nothing has been placed before this Court to satisfy ourselves as to why one could say that the calculations made in the calculation sheets are factually incorrect.

Until and unless the calculations which are perceived to be correct by the Cross Objector are also placed on record, such verification would not be possible. At the most, non submission of own calculations by the Cross Objector could be considered to be a fact, enabling this Court to draw an inference that whatever has been submitted in this pursis by the claimant as correct. But before that happens, we would like to give further opportunity to the Cross Objector.

List the matter on 13.03.2019.

In the meanwhile, Cross Objection is *admitted*.

JUDGE

JUDGE