

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

**24 CIVIL APPLICATION NO.11640 OF 2021
IN FA/4221/2016**

**DATTATRAYA GANGARAM GHODAKE
VERSUS
THE EX. ENGINEER, LIFT IRRIGATION DIV. OSMANABAD AND ORS**

Mr V.B. Deshmukh, Advocate for applicant
Mr B.V. Virdhe, A.G.P. for respondents

CORAM : SHRIKANT D. KULKARNI, J..

DATE : 25th October, 2021

PER COURT :

1. It is an application for modification of the order passed by this Court dated 22.6.2018 in Civil Application No.7643 of 2018.
2. Heard Mr V.B. Deshmukh, learned Counsel for the applicant and Mr Virdhe, learned A.G.P. for respondents no.1 to 3. Perused the order passed by this Court dated 22.6.2018, more particularly, paragraph 4 which relates to withdrawal of amount.
3. It is revealed during course of argument that applicant has withdrawn 50% of the amount as per order of this Court by furnishing undertaking. According to the applicant/original claimant, he is unable to arrange for the Bank Guarantee to withdraw 25% of the decretal amount and that is why, seeking modification of the order.
4. Mr V.B. Deshmukh, learned Counsel for the applicant submits that the applicant/original claimant is ready to furnish solvent surety for the said 25% amount. Learned A.G.P. opposed to modify the order.

5. Only because the applicant is unable to arrange for the Bank Guarantee to withdraw 25% of the decretal amount, cannot be a sufficient ground to modify the order. The order for withdrawal of amount came to be passed on 22.6.2018 and after more than two years, this application for modification of order came to be moved, which appears to be not genuine. No case is made out for modification of the order. The Civil Application stands rejected.

(SHRIKANT D. KULKARNI, J.)

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