

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
INTERIM APPLICATION NO. 1986 OF 2021
IN
FIRST APPEAL NO. 92 OF 2021

Surya Kirti Enterprises	
Through Shri Mahesh Shantilal Mehta	...Applicant
<i>In the matter between</i>	
Chief Engineer Development Planning	...Petitioner
<i>Versus</i>	
Surya Kirti Enterprises & Anr	... Respondent

Mr Kirit Hakani, *with Niyati Hakani for the Applicants.*
Mr A R Patil, AGP, for the Respondent/State.
Mr S K Mishra, *Senior Counsel with Om Suryavanshi, Shilpa Redkar for the MCGM.*

CORAM G.S. Patel &
Madhav J. Jamdar, JJ.
DATED: 13th December 2021

PC:-

1. The Application is for withdrawal of the entire amount of Rs. 8,25,11,923/- deposited by the Appellant in the First Appeal. The amount deposited includes significantly enhanced compensation and interest.

2. Mr Hakani for the Applicants (Respondent No 1 to the First Appeal) draws our attention to various decisions of the Supreme Court and of this Court including, importantly, *Baburao Govindrao Gaikwad & Anr v State of Maharashtra & Ors*¹ and associated matters. There is also the matter of *MCGM v Srinivas & Sons*² (order dated 9th April 2021) and finally the order of the Supreme Court in *Gundu v the State of Maharashtra*³ decided on 12th July 2021.

3. The common thread in all these matters is that the original claimant to compensation should be permitted to withdraw 50% of the enhanced amount deposited without security and the balance 50% on furnishing security.

4. Mr Hakani's application is limited today. On instructions, he only seeks leave to withdraw 50% of the amount deposited without furnishing security. In view of decision of the Supreme Court, the request is reasonable and is accepted. Liberty to the Applicants to apply afresh for a further withdrawal against security, if so advised.

5. The Registrar General is requested to process the Application within one week of it being presented and on production of an authenticated copy of this order. It goes without saying that the withdrawal will be permitted only by an online transfer and to a bank account, the details of which will be furnished by Mr Hakani to the Registrar General.

1 (2017) 11 SCC 333.

2 First Appeal (St) No. 5639 of 2020.

3 Civil Appeal No. (S) 2481 of 2021.

6. Interim Application is disposed of.
7. All concerned will act on production of a digitally signed copy of this order.

(Madhav J. Jamdar, J)

(G. S. Patel, J)