

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

**C.A.F NO.1563/2021 IN FIRST APPEAL NO.106/2018**

(EXECUTIVE ENGINEER, MINOR IRRIGATION DIVISION, PUSAD, DISTT. YAVATMAL **VERSUS**  
MOHD. SUFI ABDUL RAJJAK & OTHERS)

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

*Court's or Judge's order*

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Shri N.M. Gaidhane, counsel for the applicant.  
Shri V.N. Patre, counsel for the R-1 to 4.  
Ms S.S. Jachak, A.G.P for the R-5 to 7.

**CORAM : A. S. CHANDURKAR AND G.A. SANAP, JJ.**

**DATED : 18<sup>TH</sup> AUGUST, 2021.**

By this application, the claimant seeks modification of the order dated 21.09.2018 and seeks to withdraw the balance amount remain in deposit by furnishing undertaking.

While granting stay to the execution of the award, the appellant was directed to deposit 60% of that amount. On 21.09.2018 the claimant was permitted to withdraw 50% of that amount on furnishing solvent surety and balance 50% on filing an undertaking. 50% of that amount has been withdrawn by filing undertaking. According to the claimant, he is not in a position to furnish solvency of an amount of Rs.2,21,65,000/- for withdrawing further 50% of the amount. Hence, by this application the claimant seeks modification of that order.

Perused the judgment of the reference Court. Considering the fact that the appellant has deposited 60% of the decretal amount and the claimant has withdrawn half of that amount by furnishing undertaking, the claimant is permitted to withdraw further 20% of the amount lying in deposit subject to filing an undertaking that in case the appeal is allowed, the amount withdrawn shall be repaid with interest at such rate the Court may direct. The balance amount shall remain invested in fixed deposit.

The civil application is disposed of.

**(G.A. SANAP, J.)**

**(A. S. CHANDURKAR, J.)**