

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

WRIT PETITION NO.5122 OF 2021

**PANDURANG SAKARU JAWARE
VERSUS
VINAYAK YADAV VIRKAR**

...
Advocate for Petitioner : Mrs. M.A. Kulkarni
Advocate for Respondent : Mr. S. D. Bhagwat
...

CORAM : NITIN B. SURYAWANSHI, J.

DATE : 05th JULY, 2022

PER COURT :

1. The application filed by the petitioner under Order 20 Rule 11(2) of the Code of Civil Procedure in M.A.C.P. Darkhast No.100/2019, seeking installment to pay the compensation amount awarded by the Motor Accident Claims Tribunal, Ahmednagar is rejected on the ground that the decree holder has not consented to the same. The petitioner is aggrieved by the said order.
2. Pursuant to the order passed by this Court on 23/03/2021, the petitioner has deposited amount of Rs.1,00,000/- in this Court on 30/03/2021.
3. Admittedly, the respondent has filed Darkhast for recovery of Rs.1,74,000/-. The petitioner claims to be a Tractor/JCB driver, who had purchased the JCB for earning livelihood. The petitioner claims that he is 65 years old and due to COVID

pandemic his financial condition is deteriorated. Therefore, he is not in a position to deposit amount of Rs.1,74,000/- at a time and hence, he may be allowed to pay the said amount by way of installments. Learned advocate for respondent strongly opposed the prayer of the petitioner contending that he has filed execution petition in the year 2019, for execution of the award passed by the Tribunal on 19/04/2014. In that view of the matter, he contends that there is no substance in the petition and the petition may be dismissed by confirming the impugned order.

4. Considering the peculiar facts of the present case and the fact that the petitioner is 65 years old, and that he has deposited amount of Rs.1,00,000/- in this Court, I am of the view that the petitioner can pay the dues by way of installment. Writ petition is, therefore, allowed in following terms :-

I) The Petitioner shall pay arrears/dues in M.A.C.P. Darkhast No. 100/2019 by way of installment of Rs.10,000/- per month, till the realisation of the entire awarded amount.

II) The installment shall be paid on or before 10th of every month, commencing from the next month.

III) On failure of petitioner to pay any two

installments, the Darkhast proceedings shall be revived.

- IV) Amount of Rs.1,00,000/- deposited by the petitioner in this Court, be handed over to the respondent alongwith accrued interest.

Writ Petition is accordingly disposed of.

(NITIN B. SURYAWANSHI, J.)