

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

**904 CIVIL APPLICATION NO.9890 OF 2022
IN APPEAL FROM ORDER NO. 9 OF 1999**

**MAHARASHTRA KRISHNA VALLEY DEVELOPMENT CORPORATION
THR ITS EXECUTIVE ENGINEER SHRIGONDA AHMEDNAGAR
VERSUS
M/S S D SHINDE AND COMPANY AND OTHERS**

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Advocate for Applicant : Mr. Rajale Gulab B.
Advocate for Respondent No. 5 : Mr. R. R. Imale
Advocate for Respondent No. 6 to 8 : Mr. S. P. Brahme h/f.
Mr. P. M. Nagargoje
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CORAM : SANDIPKUMAR C. MORE, J.

DATE : 26.08.2022

PER COURT :

. The applicant – Maharashtra Krishna Valley Development Corporation is seeking permission to withdraw the amount of accrued interest on the amount of Rs. 40,00,000/- which was deposited by applicant and was subsequently withdrawn under order dated 12.08.2016 of this Court.

2. The learned counsel for the applicant submits that initially an arbitrator's award was passed in favour of respondent No.1 – Company and accordingly the amount of Rs. 40,00,000/- and the amount of Rs. 15,60,000/- were deposited by the applicant -

Corporation in this Court. The concerned persons of present respondent No. 1 thereafter had withdrawn the amount of Rs. 15,60,000/- from time to time. The amount of Rs. 40,00,000/- thus remained invested in F.D.R. in Nationalized Bank. However, since the Appeal from Order No. 9/1999 and the Civil Revision Application No.125/1999 filed by the applicant - Corporation were allowed under common Judgment and Order dated 23.11.2015, the refund of said amount of Rs. 40,00,000/- was sought by the appellant -Corporation and under order dtd.12.01.2016 this Court had allowed to withdraw the said amount. However, inadvertently at the time of withdrawal of the said amount of Rs. 40,00,000/-, the order of withdrawal of interest accrued on the said amount at the relevant time was not made, and therefore, the amount of such interest remained with this Court which is to be now refunded to the applicant - Corporation.

3. The learned counsel for one of the partners of respondent No.1 – Company submits that the Company has already challenged the common Judgment and Order dated 23.11.2015 before the Honourable Apex Court and the proceeding to that effect is pending.

4. The record shows that though the amount of Rs. 40,00,000/- was refunded to applicant – Corporation, but the interest accrued

thereon till the relevant date was not paid to the applicant. Moreover, from the report of Section Officer as called as per the order dtd. 28.07.2022, it appears that the aforesaid accrued interest amount till 31.03.2022 is of Rs. 1,57,11,674/- which has been kept in Fixed Deposit Receipt with State Bank of India, High Court Branch, Aurangabad. Thus, when the award in arbitration proceeding initiated by respondent No.1 - Company has already been set aside under common Judgment and Order dated 23.11.2015 in A.O. No. 9/1999 and C.R.A. No. 125/1999, there is no need to retain the aforesaid interest amount by this Court.

5. The proceeding challenging the aforesaid common Judgment and Order dated 23.11.2015 is going on before the Honourable Apex Court. However, there is no stay from the Honorable Apex Court for withdrawal of the amount of accrued interest. On the contrary, there is only stay in respect of recovery of the amount of Rs. 15,60,000/- from respondent No.1 – Company. Thus by considering the pendency of the matter before Hon'ble Apex Court challenging the common judgment dated 23.11.2015, an undertaking to the extent of amount of Rs. 40 Lacs can be obtained from applicant – Corporation in case the matter before Hon'ble Supreme Court is allowed.

6. Thus the aforesaid amount of accrued interest of Rs. 1,57,11,674/- is allowed to be withdrawn by the applicant - Corporation on usual undertaking to the satisfaction of learned Registrar (Judicial) of this Court only to the extent of Rs. 40,00,000/- in case the proceeding before the Honourable Apex Court is decided in favour of respondent No.1 – Company. It is made clear that for the rest of the amount there shall not be any undertaking by the applicant - Corporation. The aforesaid amount be paid to the applicant - Corporation along with the interest accrued thereon till date.

7. Application stands disposed of accordingly .

(SANDIPKUMAR C. MORE)
JUDGE

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