

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

73 WRIT PETITION NO.9130 OF 2022

SHRIPATI APPARAO MUNDE AND ANOTHER

VERSUS

THE STATE OF MAHARASHTRA THROUGH DISTRICT COLLECTOR
AND OTHERS

...

Advocate for Petitioners : Mr. S. S. Mundhe
AGP for Respondents-State : Mr. S. K. Tambe

...

**CORAM : RAVINDRA V. GHUGE
AND
ARUN R. PEDNEKER, JJ.**

DATE : 13th September, 2022

PER COURT :

1. The petitioners have already availed of a remedy by preferring a Regular Darkhast No.16 of 2019 before the competent executing Court in order to ensure that the decretal amount along with interest is recovered from the acquiring body. By filing this petition, a direction is sought under the writ of mandamus that the respondents be directed to deposit the decretal amount with interest before the executing Court.
2. The executing Court itself is dealing with the execution

proceeding and a warrant has been issued. Recently the Hon'ble Supreme Court has observed in paragraph Nos.6.2 and 7 in it's order dated 24/08/2022, in ***Civil Appeal No.5256 of 2022***, filed by ***National Highways Authority of India Vs. Sheetal Jaidev Vade and Ors.***, as under :-

"6.2Therefore, once the original writ petitioner was having an efficacious, alternative remedy to execute the award passed by the learned Arbitral Tribunal/Court, by initiating an appropriate execution proceeding before the competent Executing Court, the High Court ought to have relegated the original writ petitioners to avail the said remedy instead of entertaining the writ petition under Article 226 of the Constitution of India which was filed to execute the award passed by the Arbitral Tribunal/Court. If the High Courts convert itself to the Executing Court and entertain the writ petitions under Article 226 of the Constitution of India to execute the award passed by the Arbitral Tribunal/Court, the High Courts would be flooded with the writ petitions to execute awards passed by the learned Arbitrator/Arbitral Tribunal/Arbitral Court."

"7. We disapprove the entertaining of such writ petitions under Article 226 of the Constitution of India to execute the award passed by the learned Arbitral Tribunal/Court, without relegating the judgment creditor in whose favour

the award is passed to file an execution proceeding before the competent Executing Court.”

3. In view of the above, this petition is dismissed.

(ARUN R. PEDNEKER, J.)

(RAVINDRA V. GHUGE, J.)

gawade/-.