

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

APPEAL FROM ORDER NO. 116 OF 2015
WITH CA/16546/2015 IN AO/116/2015

M/S INDICON CONSTRUCTIONS PVT LTD THROUGH ITS
DIRECTORASHOK S DHAMDHERE
VERSUS
STATE OF MAHARASHTRA AND OTHERS

...
Advocate for Appellant : Mr. V.S. Kadam
AGP for Respondent / State : Mr. S.B. Pulkundwar
....

CORAM : RAJESH S. PATIL, J.
DATE : 2nd December, 2022

PER COURT :

1. By consent of the parties this matter is taken up for hearing.
2. Appellant herein is a Private Company who had filed Civil Suit for recovery of amount and compensation i.e. Special Civil Suit No. 129 of 2015 in the Court of Civil Judge, Senior Division, Aurangbad. Alongwith the suit, appellant who is original plaintiff preferred Application (Exh.5), under the Provisions of Order XXXIX Rule 1 and 2 of Civil Procedure Code, thereby praying for quashing and setting aside the letter dated 24th March, 2015 issued by defendant No.4 for directing the Executive Engineer (PW) South Division, Pune for recovery of amount of Rs.2,24,74,153/- from the bills payable to

the applicant. The said Exh.5 was rejected by order dated 28.10.2015. Against the said order present Appeal from Order is filed.

3. This Appeal from Order was heard on 21st December, 2015 and *interim* relief in terms of prayer clause 'B' in Civil Application filed in the Appeal from Order was granted. Hence, there was stay operating on letter dated 24th March, 2015. Pursuant to which the payments were released to the applicant.

4. In the meantime, the suit which was pending before the Civil Judge, Senior Division, Aurangabad has been transferred to the Commercial Court, however as per knowledge of appellant, the Court is not available as of today. In such circumstances, the parties are desirous that, present Appeal from Order can be disposed off and the suit pending before the Commercial Court be heard expeditiously in a time bound manner. In view of the same, the Principal District Judge, Aurangabad is hereby directed that, the matter be assign to the relevant Court to decide it expeditiously in time bound manner and the said judge taking up the matter should make an endeavour to disposed off the suit within a period of one (1) year from the date of receipt of authenticated copy of this order.

5. It is needless to say that, observations made in the order dated 21st December, 2015 by this Court in the Appeal from Order are *prima-facie*. The learned District Judge should hear the suit without being influenced by the order dated 21st December, 2015.

6. *Interim* relief granted in Appeal from Order to continue till disposal of the suit.

7. Appeal from Order is disposed off.

8. Pending Civil Applications, if any, do not survive and same stand disposed off.

[RAJESH S. PATIL]
JUDGE