

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR.

CIVIL APPLICATION [CAO] NO. 769/2021
IN MISC. CIVIL APPLICATION NO. 1319/2015.

Integrated Sales Service Limited, HongKong.

-Versus -

DMC Management Consultants Ltd. And others.

Office Notes, Office Memoranda of
Coram, appearances, Court's Orders
or directions and Registrar's order

Court's or Judge's Order

Shri D.V. Chauhan, Advocate for the Applicant.
Shri S.V. Manohar, Senior Advocate with Shri M.
Shareef and A.J. Mirza, Advocates for Non-applicant
Nos.2 and 3.

Shri S.D. Dewani, Advocate for Non-applicant No.4.

Shri W.T. Mathew, Advocate for Non-applicant No.1.

CORAM : SMT. ANUJA PRABHUDESSAI, J.

DATE : JANUARY 13, 2022.

Heard.

2. By this application, the applicant has sought release of the amount transferred by the Registry of the Hon'ble Supreme Court to the Registry of this Court.

3. Pursuant to the orders of the Hon'ble Supreme Court dated 10.04.2017 in Special Leave to Appeal (C) Nos. 8347-8348 of 2017, non-applicant no.2 Arun Upadhaya had deposited before the Hon'ble Supreme Court an amount of

Rs. 0.3 Millin U.S Dollar equivalent to Rs.2 Crores in Indian Currency.

4. The appeals filed before the Hon'ble Supreme Court have been dismissed by judgment and order dated 10.08.2021. Pursuant to which the applicant herein filed an application before the Hon'ble Supreme Court for release of the amount deposited by non-applicant no.2 Arun Upadhaya.

5. By order dated 01.10.2021, the Hon'ble Supreme Court directed the Registry to transfer the amount lying in the FDR along with interest to the Registry of this Court with further liberty to the applicant to approach this Court for suitable orders. Pursuant to the said order, total amount of Rs.2,42,42,67,479/- which is inclusive of interest accrued thereon, has been transferred to this Court.

6. The applicant has sought transfer of this amount along with interest accrued thereon in the account of Shri Bharat M, the power of attorney holder of the applicant. Copy of power of attorney is placed on record, which contains a specific clause permitting the power of attorney holder to withdraw the amount deposited in the Court on behalf of the applicant.

7. Learned Senior Counsel for non-applicant no.2 submits that the review petition is pending before the Hon'ble Supreme Court. He accords no objection for withdrawal of the amount, subject to the applicant furnishing appropriate Bank guarantee and on complying with other requirements, if any, as per the guidelines of the Reserve Bank of India.

8. The appeals filed by non-applicant no.2 and other non-applicants have been disposed of. Hence, the applicant is entitled to receive the amount deposited by non-applicant no.2 in compliance with the award. Payment of money cannot be delayed any further in view of pendency of the review petition. Interest of the non-applicant can be protected by making the withdrawal subject to the final outcome of the review and putting the applicant to terms to furnish Bank Guarantee of equivalent amount.

9. Hence, the application is allowed. The amount of Rs.2,42,67,479/- with interest accrued thereon be transferred to the account of Bharat M., the power of attorney holder of the applicant, the details of which are given in paragraph no.9 of the application. It is made clear that the withdrawal is subject to the final outcome of the review petition. The applicant

through his power of attorney holder, shall furnish Bank guarantee of the equivalent amount and shall abide by the guidelines of the Reserve Bank of India, if any.

10. Civil Application stands disposed of in above terms.

(SMT. ANUJA PRABHUDESSAI, J.)