

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

933 CIVIL APPLICATION NO.7687 OF 2023
IN FA/1120/2016

SONERAO SOPANRAO SALUNKE
VERSUS
THE STATE OF MAHARASHTRA THROUGH THE COLLECTOR
LATUR AND ANR

...
AND

934 CIVIL APPLICATION NO.7688 OF 2023
IN FA/1119/2016

JEEVANAJI ANNARAO SALUNKE
VERSUS
THE STATE OF MAHARASHTRA THROUGH THE COLLECTOR
LATUR AND ANR

...
Advocate for Applicant : Mr. Gastgar Santosh B.
AGP for Respondents : Mr. A B Chate

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CORAM : S. G. CHAPALGAONKAR, J.
Dated: July 07, 2023

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PER COURT :-

ORDER ON APPLICATIONS FOR WITHDRAWAL OF AMOUNT :-

1. Learned advocate appearing for the applicant submits that by order dated 23.3.2017 the applicant was permitted to withdraw total 75% of the amount deposited by the appellant. Out of that 25% of the amount was permitted to be withdrawn subject to furnishing of bank guarantee of Nationalized Bank/Scheduled Bank.
2. In pursuance of that order, the applicant furnished the bank guarantee on 4.7.2017 to the Registrar of this Court. It is further submitted that the appeal filed by the respondent has been dismissed vide order dated 13.3.2020. No steps for restoration of the appeal are taken till this date.

aaa/-

3. Meanwhile, this Court permitted the applicants to withdraw 25% of the amount laying with Registry vide order dated 5.9.2022 passed in civil application filed by the present applicant. Now, applicant/s are seeking permission to withdraw the amount which is subject matter of bank guarantee.

4. On last occasion, matter was placed before this Court on 23.6.2023. Respondents were granted last opportunity to take steps for restoration of the appeal. It was further made clear that if steps are not taken, the prayer of the applicant/s would be favourably considered. However, till this date, no steps are taken.

5. Considering the submissions advanced and fact that the appeal filed by the respondents has been dismissed long back, the applications deserve to be allowed. Hence, the order.

ORDER

- i. The applications are allowed in terms of prayer clause 'B' in CA no.7687/2023 in FA 1120/2016 reads thus :-

“The applicant may kindly be permitted to withdraw 25% of Rs.21,36,000/- (Rs. Twenty one Lakhs thirty six thousand) with up-to-date interest thereon w.e.f. 4.7.2017 onwards from the Maharashtra Gramin Bank Br. Khadgaon Old AUSA Road, Latur against Bank Guarantee dated 4.7.2017 furnished by the applicant to comply with the order dated 23.3.2017 passed by Hon'ble High Court in First Appeal No.1119 of 2016 (Exh.R) as purpose of Bank Guarantee is over on account of dismissal of First Appeal No.1120 of 2016.”

AND

Prayer clause 'B' in CA 7688/2023 in FA 1119/2016 reads thus :-

“The applicant may kindly be permitted to withdraw 25% of Rs.28,48,000/- (Rs. Twenty eight Lakhs forty eight thousand) with up-to-date interest thereon w.e.f. 4.7.2017 onwards from the Maharashtra Gramin Bank Br. Khadgaon Old AUSA Road, Latur against Bank Guarantee dated 4.7.2017 furnished by the applicant to comply with the order dated 23.3.2017 passed by Hon’ble High Court in First Appeal No.1119 of 2016 (Exh.R-2) as purpose of Bank Guarantee is over on account of dismissal of First Appeal No.1120 of 2016.”

- ii. Civil applications are disposed off.

(S. G. CHAPALGAONKAR, J.)

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