

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

**CIVIL APPLICATION NO. 11837 OF 2022
IN FA/4059/2016**

Ashok Vitthal Bhole and others .. Applicants

Versus

The Area Manager,
Maharashtra Industrial Development
Corporation Jalgaon and others .. Respondents

Mr. S. A. Mulla, Advocate h/f Smt. U. V. Yadav, Advocate for the
Applicants.

Mr. G. S. Khaire, Advocate h/f Mr. S. S. Dande, Advocate for
Respondent No. 1.

Mr. S. B. Pulkundwar, AGP for Respondent Nos. 2 and 3.

CORAM : KISHORE C. SANT, J.

DATED : 24th AUGUST, 2023.

P C. :-

. The applicants have filed this application seeking modification of the order dated 04.03.2022 whereby, the applicants were permitted to withdraw 75% of the amount of compensation i.e. deposited in this Court by the respondents. It is the case of the applicants that, though this Court has directed withdrawal of amount, but it is with condition on furnishing the solvency or bank guarantee.

2. Learned advocate for the applicants submits that, it is the case of the applicants that they are not in a position to arrange for solvency or security. On going through the application it is seen that, the applicant

Nos. 1, 2 and 5 are more than 70 years of age. The applicant Nos. 3 and 4 are more than 60 years of age.

3. This Court finds that, though the order is passed, the applicants could not furnish the solvent surety. Their difficulty appears to be genuine. The applicants are thus deprived of fruits of the decree/award because of genuine difficulty. This Court finds that, the order needs to be modified. Hence, the following order is passed.

ORDER

- (i) Civil Application No. 11837/2022 is allowed.
- (ii) The order dated 04.03.2022 passed in Civil Application No. 2836/2022 is modified. The condition of furnishing the solvent surety/bank guarantee is deleted.
- (iii) The applicants are permitted to withdraw 75% amount of the deposited amount with interest accrued, if any, on furnishing undertaking that, in the event, if the appeal is allowed they shall refund the amount within a period of two (02) months from the date of order.
- (iv) The civil application stands disposed off.

(KISHORE C. SANT, J.)

PS.B.