



IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

CIVIL APPLICATION NO.14393 OF 2023
IN FA/4718/2017 WITH X-OBJ/90/2022 IN FA/4718/2017

Narsing Vinayakrao Patil

...Applicant

Versus

The Executive Engineer, Minor Irrigation
Division Thr Lift Irrigation Division, Osmanabad
And Others

...Respondents

Mr. V.V. Ingale, Advocate for the applicant.
Mr. R.C. Patil, Advocate for respondent No. 1.
Mr. S.K. Shirse, AGP for State.

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CORAM : KISHORE C. SANT, J.

DATE : 5th DECEMBER, 2023

PER COURT:

1. Heard.
2. This application is filed with a prayer to modify clause II of the operative order passed by this Court in Civil Application No. 4494/2018, dated 03.04.2018. This Court had allowed the application for withdrawal 50% amount was allowed to be withdrawn on furnishing undertaking, 25% amount was allowed to be withdrawn on furnishing banking guarantee of Nationalized bank. The applicant/original claimant expresses that now he is required to deposit 100% amount of the bank guarantee and is also required to pay charges above that amount. He further

submits that because of this condition, though applicant has withdrawn 50% of the amount, he could not withdraw further 25% of the amount. A prayer is therefore made that condition in clause II be modified. Applicant is ready to furnish solvent surety/security for the said amount.

3. The learned advocate Mr. R.C. Patil opposes the said prayer submitting that the Appellate Court while passing the order considered the interest of both the parties. The interest of the acquiring body also needs to be considered and to secure the amount it is necessary to furnish the bank guarantee.

4. Considering the submissions, this Court finds that interest of the acquiring body can be taken care by directing the applicant to furnish solvent surety/security in this Court for the said amount. Hence, the following order:

ORDER

1. Civil Application is allowed.
2. Clause II of the operative order is thus modified as below:

"Rest of 25% amount may be allowed to be withdrawn by applicants on furnishing solvent surety/security to the satisfaction of Registrar (Judicial) of this Court along with accrued interest, if any."

[KISHORE C. SANT, J.]