

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

**915 CIVIL APPLICATION NO.14354 OF 2022
IN FA/93/2021**

BALIRAM SAMPATI SONKAMBLE
VERSUS
MAHARASHTRA INDUSTRIAL DEV. CO., THR ITS REGIONAL
OFFICER, M.I.D.C., LATUR AND ANOTHER

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Mr. V.P. Golewar Advocate h/f. Mr. Arvind R. Joshi Advocate
for Applicant.

Mr. S.S. Dande Advocate for Resp. No.1.

Mr. A.M. Phule, A.G.P. for Resp. No.2.

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**CORAM: SMT. VIBHA KANKANWADI AND
ABHAY S. WAGHWASE, JJ.**

DATE : 10th FEBRUARY, 2023

ORDER :

1. Heard learned Advocate appearing for the applicant,
learned Advocate appearing for respondent No.1 – acquiring
body and learned AGP appearing for respondent No.2.

2. It appears that the acquiring body has filed the Appeal and
as a condition precedent deposited around Rs.62,00,000/-
towards the compensation. The applicant thereafter filed civil
application for withdrawal of the amount and this Court had

allowed the applicant to withdraw 25% amount subject to furnishing of undertaking and 25% amount on furnishing security. The remaining 50% amount was directed to be deposited in the fixed deposit. It appears that the said order passed by this Court was challenged by the applicant before the Hon'ble Supreme Court and the Hon'ble Supreme Court allowed the withdrawal of 50% of the amount without security and 50% of the amount subject to security to the satisfaction of the Reference Court. It appears that thereafter the applicant had filed Misc. Application (NRJE)No.11 of 2017 before the Reference Court seeking withdrawal of the remaining 50% amount as per the order passed by the Hon'ble Supreme Court. The Reference Court by order dated 3rd May 2017, allowed the said application in the form that the applicant would furnish Bank Guarantee of Nationalized Bank or Scheduled Bank for 25% amount and solvent surety for 25% amount. The applicant states that by furnishing solvent surety he has withdrawn 25% amount. But then the applicant states that he could not get the bank guarantee for the remaining 25% amount. Therefore, the applicant again approached the same Court for modification of the order, however, the Reference Court rejected the said application on 18th February 2021. Now, the applicant is praying

that he be allowed to withdraw remaining 25% amount along with accrued interest thereon, on furnishing solvent security / solvent surety of the like amount.

3. We are constrained to observe that when the Hon'ble Supreme Court has passed the order and given liberty to the Reference Court to allow the applicant to withdraw 50% amount subject to the security to the satisfaction of the Reference Court and thereafter the Reference Court passing the order for its satisfaction, then this Court cannot interfere in the form that it will allow the remaining 25% amount to be withdrawn by way of solvent security or solvent surety. The remedy for the applicant is elsewhere. Hence the Application stands rejected.

[ABHAY S. WAGHWASE]
JUDGE

[SMT. VIBHA KANKANWADI]
JUDGE