

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

CIVIL APPLICATION NO.15442 OF 2022
IN ARBA/14/2021 WITH CA/1376/2022 IN ARBA/14/2021 WITH
CA/9221/2022 IN ARBA/14/2021

Fayajoddin Allauddin Kazi

Applicant

Versus

National Highways Authority Of India
Project Implementation Unit And Another

Respondents

Mr. V.B. Patil h/f. Mr. N.L. Chaudhari, Advocate for the applicant.
Mr. S.R. Yadav Lonikar, AGP for State.
Mr. D.S. Manorkar, Advocate for the appellant/respondent.

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[CORAM : NITIN B. SURYAWANSHI, J.]

DATE : 14th JULY, 2023

ORDER :

1. This application is filed for withdrawal of 50% amount deposited by the appellant/acquiring body in this Court, awarded by the District Court in application filed under section 34 of Arbitration and Conciliation Act 1996.

2. Learned advocate for the appellant states that the impugned judgment and order passed by the District Court under section 34 is legally unsustainable as section 34 does not permit the District Court to modify the award. It can at the most

set aside the award and remand the matter back to the arbitrator for decision afresh on merits. In support of said contention he has relied on *The Project Director, National Highways No. 45E and 220 National Highways Authority Of India vs. M. Hakeem & Anr.*, SLP (Civil) 13020 of 2020.

3. Learned advocate for the applicant, however, submits that since the amount is deposited, the applicant may be permitted to withdraw the same.

4. Considering the legal issue raised by the learned advocate for the appellant, at this stage this Court is not inclined to allow the application. Civil application is therefore dismissed.

5. List the appeal for further consideration in admission category on 7th August, 2023.

6. Parties are directed to file short synopsis with points to be urged and citations, if any.

[NITIN B. SURYAWANSHI, J.]