

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

**CIVIL APPLICATION NO. 12293 OF 2023
IN FA/3470/2015**

Prakash Vishwanath Todkari .. Applicant

Versus

The State of Maharashtra and others .. Respondents

Mr. Laxmikant C. Patil, Advocate for the Applicant.

Mr. S. P. Tiwari, AGP for Respondent Nos. 1 and 2.

Mr. G. B. Rajale, Advocate for Respondent No. 3.

CORAM : KISHORE C. SANT, J.

DATED : 13th OCTOBER, 2023.

P. C. :-

. Heard the parties.

2. This Court by order dated 28.04.2017 had passed an order directing the office to allow the applicant to withdraw amount of 50% of the amount deposited by the acquiring body – appellant in this Court on furnishing undertaking. Remaining amount of 50% was directed to be withdrawn by furnishing bank guarantee.

3. It is the case of the applicant-original claimant that he is not in a position to furnish bank guarantee because of financial constraints. The present application is therefore filed for modification in the

condition in paragraph No. 3 of furnishing of bank guarantee.

4. The application is opposed by Mr. Rajale, learned advocate for respondent No. 3 saying that the order is passed keeping in view the interest of both the parties, no modification is required.

5. This Court finds that, in spite of the order the applicant could not get the fruits of the order. There is already a judgment in his favour passed by the Reference Court. The intention of this Court clearly appears to allow the applicant to withdraw the amount. However, because of the condition of bank guarantee, the order could not be put into effect completely.

6. Learned advocate for the applicant submits that, the applicant is ready to furnish solvent surety/security for the said amount.

7. This Court finds that, it would be in the interest of justice to allow the applicant to withdraw remaining 50% amount by furnishing solvent surety/security to the satisfaction of the Registrar (Judicial) of this Court. Hence, the following order is passed.

8. The order dated 28.04.2017 stands modified by replacing sub paragraph of paragraph No. 3 as below :

Balance 50% amount is permitted to be withdrawn with accrued

interest if any by furnishing solvent surety/security to the satisfaction of the Registrar (Judicial) of this Court.

9. The application is thus allowed in terms of prayer clause (B).

10. Office to act upon this order.

11. The civil application is disposed off.

(KISHORE C. SANT, J.)

P.S.B.