

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
INTERIM APPLICATION NO. 161 OF 2023
IN
WRIT PETITION NO. 8166 OF 2017

The ITD Cementation India Ltd. ...Applicant

IN THE MATTER BETWEEN

Somnath B. Bhatia ...Petitioner.

VS.

The ITD Cementation India Ltd. and ors. ...Respondents.

Mr. Yashodhan Divekar a/w. Mr. Rohan Karande i/b M/s. Divekar & Co. for the Applicant/Respondent No.1.

Mr. Ajit J. Kenjale a/w. Mr. Sai R. Kadam for the Petitioner in WP.

Mr. C.D. Mali, AGP for the Respondent Nos.2 to 6/ State.

CORAM : N.R. BORKAR, J.
DATE : 14.06.2023.

P.C. :

1. This Court, on 2 August 2022, in Writ Petition No. 8166 of 2017, passed the following order:

"1. Learned Counsel for the respondent no. 1, on instructions from the authorized person submits that within a period of four weeks from today an amount of Rs.9.00 Crores shall be deposited with the Registrar, Appellate Side of this Court.

2. Since the statement is made on instructions, the same is accepted as an undertaking.

3. In the aforesaid background, the prayer of the respondent no. 1 for grant of time to file affidavit-in-reply is allowed. The affidavit-in-reply be placed on record within a period of three weeks from today.

4. Until further orders, there shall be no coercive action against the respondent no. 1.

5. Matter to be heard alongwith IA/2984/2022 in WP/8166/2017 on 06/09/2022."

Pursuant to the abovesaid order, the respondent No.1/applicant, in the present application, has deposited Rs.9 Crores in this Court.

3. This Court thereafter on 13 September 2022, while disposing of the petition passed the following order:

“(i) The learned SDO shall decide the appeal on its own merits and in accordance with law within a period of 12 weeks from the receipt hereof.

(ii) Parties are permitted to produce additional documents, if any.

(iii) The rival contentions of the parties are left open.

(iv) The amount deposited before this Court shall be subject to further orders that may be passed, depending upon the outcome of the appeal.

(v) Pending Interim Applications, if any, are disposed of.

Stand over to 03.01.2023 for reporting compliance.”

4. The learned counsel for the applicant submits that the Sub-Divisional Officer by order dated 08 December 2022, has allowed the appeal filed by the applicant/respondent No.1. It is submitted that the order of Sub-Divisional Officer was challenged in the appeal before the Collector and even that appeal is dismissed by the order dated 13 March 2023.

5. The learned counsel for the original petitioner submits that the applicant may not be permitted to withdraw the amount as the petitioner has filed the appeal against the order of Collector dated 13 March 2023 before the Additional Commissioner, Pune Division, Pune and the same is still pending. The learned AGP

submits that considering the facts and circumstances of the case, the applicant may not be allowed to withdraw the amount in question.

6. As the Sub-Divisional Officer has allowed the appeal filed by the applicant, I am inclined allow the present application in view of the order passed by this Court dated 13 September 2022. Hence, the following order:

ORDER

a] The Application is allowed.

b] The applicant/original respondent No.1 is permitted to withdraw the amount of Rs.9 Crores with interest accrued, if any thereon.

[N.R.BORKAR, J.]