



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

SECOND APPEAL NO. 396 OF 2024

MAHARASHTRA JEEVAN PRADHIKARAN WORKS DIV. 1
AURANGABAD

VERSUS

M/S S.S. CONSTRUCTION COMPANY, A REGISTERED
PARTNERSHIP FIRM THR ITS PARTNER KESHAV N.
SANAP

...

Shri Patil Vinod Prakash, Advocate for the Applicant.
Shri S.M. Kulkarni, Advocate h/f Shri Bhavthankar Vivek V.,
Advocate for the Respondent.

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CORAM : PRAFULLA S. KHUBALKAR, J.

DATE : 16th April, 2025

Per Court :-

1. The motion dated 15.04.2025 is moved by the learned advocate for the respondent for speaking to the minutes of the order dated 20.03.2025, contending that the said order records that the plaintiff/ respondent is permitted to withdraw the amount deposited by the appellant/ defendant with the Trial Court. It is submitted that the amount was deposited in this Court and, therefore, it ought to have been ordered that the respondent is permitted to withdraw the amount deposited with this Court.

2. The learned advocate for the appellant has no

objection.

3. The motion is allowed. The words “with the learned Trial Court” in the last sentence of paragraph No.5 of the order dated 20.03.2025 be replaced by the words “**with this Court**”. The order be, accordingly, corrected and uploaded.

kps

(PRAFULLA S. KHUBALKAR, J.)

(This order dated 20.03.2025 stands corrected and uploaded in view of the order dated 16.04.2025 passed on the motion for speaking to the minutes.)

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

SECOND APPEAL NO. 396 OF 2024

Maharashtra Jeevan Pradhikaran Works Div. 1 Aurangabad

VERSUS

M/s S.s. Construction Company, A Registered Partnership Firm
Thr Its Partner Keshav N. Sanap

...

Mr. V. P. Patil, Advocate for Appellant

Mr. V. V. Bhavthankar, Advocate for Respondent

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CORAM : ROHIT W. JOSHI, J.

DATED : 20TH MARCH, 2025

PER COURT :-

. The respondent in the present appeal is the original plaintiff. He had filed a suit for recovery of money against the appellant/defendant. The suit is decreed by the learned Trial Court by passing a decree in the sum of Rs.1,71,490.94/-, the learned Trial Court has also directed the defendant to pay interest on the said amount @ 12% per annum from 23.12.1996 i.e. date of filing of suit till the date of realisation of the said amount.

2. Aggrieved by the said decree, the appellant herein had filed an appeal being Regular Civil Appeal No.1395 of 2003. The learned Trial Court was also pleased to dismiss the appeal.

3. The learned Advocate for appellant does not contend that any material evidence is not considered by the learned Courts or that any inadmissible evidence is relied upon. The endeavour of the learned Advocate is to make this Court re-appreciate the evidence to arrive at another conclusion. The learned Counsel for the appellant has not been able to point out any perversity. His argument hovers around re-appreciation of evidence, which is beyond scope of my jurisdiction under Section 100 of the Civil Procedure Code.

4. Perusal of the judgments passed by the learned Courts indicate that a sum of Rs.27,184/- was payable towards the final bill, about which there is no serious dispute. Apart from this, the appellant/original defendant had made deduction of Rs.60,473/- and 83,834/- from the final bill on account of delay in execution of the work by the plaintiff. Both the Courts have held that the plaintiff was not responsible for the delay and delay was attributable to the lapses on the part of the defendant/appellant. These findings are pure findings of fact. It is noticed from perusal of the judgment with the findings are recorded after appreciation of evidence. On perusal of the judgments, the deposition of witness and documentary evidence, I do not find any perversity in the findings recorded by both the

learned Courts.

5. In that view of the matter, the Second Appeal is **dismissed** as not disclosing any substantial question of law. The plaintiff/respondent is permitted to withdraw the amount deposited by the appellant/defendant with this Court.

6. Parties to bear their own cost.

7. Pending Civil Applications, if any, stand disposed of.

(ROHIT W. JOSHI, J)

Rushikesh/2025