

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.4394 OF 2024

Vishal Earth Movers India Pvt. Ltd. and Anr. .. Petitioners

Vs.

The Union of India,
Through the Department of Defense and Ors. .. Respondents

Mr. Pradeep J. Thorat, i/by Mr. Aditi S. Naikare, Advocates for the
Petitioners.

Ms. Sakshee P. Chavan, Advocate for Respondent Nos.1 and 2.

CORAM : A.S. CHANDURKAR &
JITENDRA JAIN, JJ

DATE : 9TH MAY, 2024.

PC. :

1. The limited relief sought by the petitioners is for permission to remove the machinery mentioned in prayer clause (a), viz. Two Hydraulic Excavator Caterpillar Model 320D with Rock Breaker and one JCB Cat with accessories, that is lying at the site of Kendriya Vidyalaya School Building, Air-Force Station, Thane.

2. Having heard the learned counsel for the petitioners as well as the learned counsel appearing for respondent nos.1 and 2, we find that at page 116 of the reply filed by the respondent no.2, a communication dated 21st December 2023 has been annexed. By that communication, the respondent no.3, who has been entrusted the contract for construction of

the building on 11th November 2023, has been called upon to deposit an amount of Rs.8,03,813.90 being the value of the material lying at the site.

3. According to the petitioners, it is concerned only with item nos.2 to 4 of the “List of T&P and Materials Lying at Site” annexed to the communication dated 21st December 2023. The petitioners are willing to deposit the value of those items with the respondent no.2 in terms of the letter dated 21st December 2023. It is further submitted that the petitioners and the respondent no.3 have business relations and they would approach the respondent no.2 jointly.

4. In view of the aforesaid and in the light of the communication dated 21st December 2023, the following directions would serve the ends of justice :

(i) The petitioners and respondent no.3, jointly, would approach the respondent no.2 seeking release of the items at sr.nos.2 to 4 in the “List of T&P and Materials Lying at Site” appended to the communication dated 21st December 2023.

(ii) The petitioners shall tender an amount of Rs.5,90,000/-, being the value of item nos.2 to 4, in

the mode prescribed in paragraph 4 of the letter dated
21st December 2023.

(iii) On receiving the aforesaid amount, the respondent
no.2 shall release item nos.2 to 4 in favour of the
petitioners and respondent no.3.

(iv) Parties to act on authenticated copy of this order.

5. The Writ Petition is disposed of.

[JITENDRA JAIN, J.]

[A.S. CHANDURKAR, J.]