



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

**CIVIL APPLICATION NO. 11172 OF 2023
IN WP/38/1992**

ASHOK SAHAKARI SAKHAR KARKHANA LTD. THROUGH ITS
PERSONAL MANAGER

VERSUS

ASHOK PARVATRAO DESAI DIED LRS RUBHIRAJ @ RANDHIRAJ ASHOK
DESAI AND ANOTHER

...
Mr. Y. R. Shinde, Advocate h/f Mr. Rahul R. Karpe, Advocate for
Applicant

Mr. A. S. Avhad, Advocate h/f Mr. S. R. Kedar, Advocate for
Respondent No.1(a)

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CORAM : MANJUSHA DESHPANDE, J.

DATE : 03rd MARCH, 2025

PER COURT :

1. By this civil application, applicant seeks permission to withdraw the amount of Rs.1,50,000/- along with accrued interest thereon from the Civil Judge, Senior Division, Shrirampur, or to modify/clarify the order dated 27/09/2018 passed in Writ Petition No.38/1992 in that regard.

2. According to applicant, while disposing of Writ Petition No.38/1992, filed by respondent No.1 against the applicant, this Court while remanding the matter to the Co-operative Court has directed on 14/06/2012 that amount of Rs.1,50,000/- deposited by petitioner i.e. respondent No.1 herein to be transferred along with interest accrued thereon to the Co-operative Court at Shrirampur forthwith and the same shall be invested by the Co-operative Court

in a Nationalized Bank having branch at Shrirampur for an initial period of 9 months.

3. Thereafter, the Co-operative Court partly allowed the dispute vide judgment and award dated 21/12/2018, thereby directing opponent No.1 / respondent No.1 herein to pay amount of Rs.4,63,428/- along with interest from 10/10/1985 till it's complete realization to the disputant / applicant herein. Therefore, the applicant filed Special Darkhast No.20/2020 before the Civil Judge Senior Division, Shrirampur, for execution of award dated 21/12/2018.

4. During pendency of the execution proceedings, Review Application came to be filed by respondent No.1 before the Co-operative Appellate Court at Aurangabad, seeking review of the conditioned order condoning the delay caused in filing Appeal challenging judgment and award dated 21/01/2018 passed in Dispute No.323/1985. During pendency of Review Application No.01/2024, parties have arrived at compromise. Therefore, Review Application came to be disposed of in terms of compromise pursis at Exhibit-13. Learned advocate for applicant has placed on record the compromise pursis, which is marked as 'X' for the purpose of identification. As per the terms of compromise, in order to satisfy the judgment and award dated 21/12/2018, parties have settled their dispute. According to the terms of compromise the judgment

debtor / respondent No.1 herein would pay Rs.6,25,000/- towards full and final settlement to decree holder Society / applicant herein and the amount of Rs.1,50,000/- deposited as per the directions of this Court in Writ Petition No.38/1992 would be adjusted in the full and final settlement amount of Rs.6,25,000/-.

5. In view of the compromise, applicant is seeking to withdraw the amount of Rs.1,50,000/-. Applicant has also requested for withdrawal of said amount before the Co-operative Court, Shrirampur, however, the Co-operative Court has communicated to the Assistant Superintendent of the Court of Civil Judge Senior Division, Shrirampur, that in the order dated 27/09/2018 passed by this Court in Writ Petition No.38/1992, there was no such direction to transfer the said amount to any Court including the court of Civil Judge, Senior Division, Shrirampur, or to allow disputant Karkhana to withdraw the same.

6. In view of that present application is filed seeking modification/clarification of the order dated 27/09/2018, permitting applicant to withdraw the amount of Rs.1,50,000/- along with accrue interest, from the Co-operative Court, Shrirampur. In view of settlement arrived at between the parties in order to settle the dispute amongst them, the Co-operative Court at Shrirampur is hereby directed to allow applicant Ashok Sahakari Sakhar Karkhana Ltd. to withdraw the amount of Rs.1,50,000/- along with accrued

interest, deposited as per the directions issued by this Court on 27/09/2018.

7. In view of the above, civil application is allowed. Applicant is permitted to withdraw the amount of Rs.1,50,000/- along with interest accrued thereon, deposited by respondent No.1 pursuant to order dated 27/09/2018 passed in Writ Petition No.38/1992, according to the compromise entered between the parties.

(MANJUSHA DESHPANDE, J.)