



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

INTERIM APPLICATION NO.8108 OF 2025
IN
WRIT PETITION NO.5788 OF 2022

Minakshi Krushnat Waghmode & Anr. ...Applicants

IN THE MATTER BETWEEN:-

Suvarna Vasant Bhise & Ors. ...Petitioners

Versus

National Highways Authority of India & Ors. ...Respondents

Mr. R. V. Bansode a/w Mr. Mohan M. Chavan for the Applicants.

CORAM : M. S. Sonak &
Jitendra Jain, JJ.

DATED : 5 May 2025

PC.:-

1. Not on board. Upon mentioning, taken on board.
2. Heard Mr. Bansode for the Applicants.
3. This Interim Application was moved for urgent circulation this morning and is now taken up at 11:40 for hearing.
4. Mr. Bansode submits that this Court's order dated 16 April 2025 may be modified because the Applicants or the Competent Authority failed to point out to this Court that by communication dated 22 June 2023, the Applicants' properties have already been attached.
5. Mr. Bansode submits that the Applicants (Original Respondent Nos . 5 and 6 in Writ Petition No.5788 of 2022) are poor ladies. He submits that since their properties are already attached and any further transfers are banned, the order dated 16 April 2025 may be varied / modified. He submits that the directions to Respondent Nos. 5 and 6 for

bringing back the amount of Rs.1,00,21,122/- may be deleted and the Applicants agree not to sell, transfer, or convey the attached properties until the disposal of Regular Civil Suit No.59 of 2022 and Heirship Application No.49 of 2022. Mr. Bansode submits that this would meet the ends of justice because now, it would be difficult for the Applicants to bring back this amount of Rs .1,00,21,122/-.

6. We have heard Mr. Bansode and perused the Interim Application and the documents accompanying the same.

7. First, we are doubtful whether such a modification or variation can be based on an Interim Application in a disposed-of petition. In any event, assuming this is permissible, on merits, we find no case for modification/recall or variation.

8. Regarding the order dated 16 April 2025, the Applicants were granted time to bring back the above amount by 5 May 2025. This application was verified on 23 April 2025 and has been moved for urgent circulation on 5 May 2025, the day by which the Applicants should have deposited the above amount in this Court.

9. There is no explanation why the communication dated 22 June 2023 was not brought to the Court's attention. In any event, even if it had been brought, based on the same, we would have directed the authorities to sell the attached properties and recover this amount if the Applicants did not get back this amount within the time indicated by the Court. Therefore, the communication now produced cannot be grounds for varying the order made, but for reinstating the order.

10. This is a shocking case where the Competent Authority, despite a pending dispute of apportionment, hurriedly and with knowledge that a petition was lodged, proceeded to disburse the

amount of Rs.1,00,21,122/- to the Applicants. The amount was deposited in the Applicants' account and withdrawn by the Applicants precisely a day before the day on which the stay order of this Court was served. Such disbursal was *ex-facie* in breach of the statutory provisions, Government Resolutions and the decision of the Hon'ble Supreme Court in the case of ***Vinod Kumar & Ors. vs. District Magistrate, Mau & Ors.***¹. Such disbursal was also in breach of several cases decided by several Division Benches of this Court.

11. The argument about the Applicants being poor persons cannot now be accepted. The Applicants hurriedly withdrew an amount of over Rs.1 crore. The Applicants' own properties, which are attached. Accordingly, no case has been made recall or vary the directions our order dated 16 April 2025. On the one hand, the applicants claim poverty, and on the other, they agree to get back the amount should the civil court decide against them.

12. The concerned authorities must take immediate steps to recover the amount as directed in the order dated 16 April 2025.

13. This Interim Application is dismissed without any order for costs.

14. The Registry must immediately forward a copy of this order to Respondent Nos. 1 to 4 for necessary action.

(Jitendra Jain, J.)

(M. S. Sonak, J.)

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