

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

INTERIM APPLICATION NO.13845 OF 2025

IN

WRIT PETITION NO.11019 OF 2025

F.A. Enterprises

...Applicant/Petitioner

Versus

State of Maharashtra & Ors.,

...Respondent

Ms. Shilpa Kapil a/w Mr. Chidanand Kapil, Ms. Shruti Bhatt & Ms. Aaishwarya Mall for Applicant/Petitioner.

Mr. Rajiv Chavan, Senior Counsel a/w Ms. Sonam Pandey, Ms. Asmi Desai i/b A.A. Alaspurkar, AGP for Respondent No.1- State.

Mr. Rajshekhar Govilkar, Senior Counsel a/w Ms. Shaba Khan i/b Mr. Mihir Govilkar for Respondent No.2 – KIDC.

Mr. G.S. Hegde, Senior Counsel a/w Ms. P.M.Bhansali for the Respondent – CIDCO.

CORAM : R.I. CHAGLA AND
FARHAN P. DUBASH, JJ.

DATE : 23 DECEMBER, 2025

ORDER :

1. By this Interim Application, the Applicant has sought for a direction to the Registrar (Judicial-I), Appellate Side to release an amount of Rs.28.20 Crores with accrued interest to the Applicant.

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2. The Applicant has referred to the above Writ Petition No.11019 of 2013 filed against the Respondents in which an Order dated 10th April, 2015 came to be passed. By the said order, this Court had directed the Respondent No.3 – City Industrial Development Corporation (“**CIDCO**”) to deposit an amount of Rs.28.20 Crores with the Registrar (Judicial-I), Appellate Side, within two weeks. CIDCO had thereafter complied with the said order by depositing the said amount of Rs.28.20 Crores with the Registrar (Judicial-I), Appellate Side.

3. The Applicant has stated that thereafter, during the course of hearing the Writ Petition, the parties had agreed for the dispute to be resolved by process of arbitration comprising of five Arbitrators, one Arbitrator to be appointed by each party and Presiding Arbitrator to be appointed by this Court. This has been recorded in the Order dated 6th May, 2015 passed by this Court.

4. This Court had accordingly appointed the Arbitral Tribunal on 17th July, 2015 and the Writ Petition was disposed of by this Court, observing that the said amount of Rs.28.20 Crores deposited by the CIDCO has already been invested in Fixed Deposit

with the Nationalized Bank and therefore, the amount would continue to remain invested and the said deposit with accrued interest thereon would abide by the Award of the Arbitral Tribunal.

5. Thereafter, three members of the Arbitral Tribunal (two judicial members and one technical expert) after hearing the parties and considering their submissions, passed Majority Award dated 3rd April 2019, thereby allowing the claims of the Claimant / Applicant herein. The Arbitral Tribunal directed that the said amount of Rs.28.20 Crores deposited in Fixed Deposit alongwith accrued interest as per directions of this Court shall be paid over to the Claimant / Applicant herein. It was further directed that upon the said amount alongwith accrued interest being paid over to the Applicant, the total amount payable to the Applicant as per Majority Award would be reduced to the extent of said amount of Rs.28.20 Crores.

6. Respondent No.2 – Kokan Irrigation Development Corporation (“**KIDC**”), CIDCO and State of Maharashtra being aggrieved by the Majority Award approached this Court by filing Arbitration Petitions under Section 34 of the Arbitration and

Conciliation Act, 1996 (“**Arbitration Act**”), being Commercial Arbitration Petition (L) No.681 of 2019 (preferred by KIDC) alongwith Commercial Arbitration Petition No.921 of 2019 (preferred by CIDCO) and Commercial Arbitration Petition No.793 of 2019 (preferred by State of Maharashtra).

7. The learned Single Judge of this Court by Judgment and Order dated 19th May, 2020 allowed all three Petitions filed by KIDC, CIDCO and State of Maharashtra. The Applicant herein being aggrieved preferred three Commercial Appeals bearing Nos. 4915, 4925 and 4932 of 2020 before this Court under Section 37 of the Arbitration Act.

8. The Division Bench of this Court vide Judgment and Order dated 12th August 2025, allowed the Appeals filed by the Applicant and the Judgment and Order dated 19th May, 2020 passed by the learned Single Judge was quashed and set aside. The Division Bench thereby restored the Majority Award passed by the Arbitral Tribunal. It is pertinent to note that no stay had been granted by the Division Bench of this Court to the Respondents.

9. The Applicant has stated that the Respondents are now liable to pay the entire amount to the Applicant per Majority Award dated 3rd April, 2019. It is further stated that though the said order of the Division Bench was passed on 12th August 2025, the Applicant waited for a reasonable period to file the present Application under the genuine apprehension that the Respondents would pay entire awarded amount. The Respondents have not paid the awarded amount to the Applicant, thereby not complying with the Majority Award dated 3rd April, 2019. It is stated that the Respondents initially had deposited an amount of Rs.50 crores, which was released to the Applicant against the security furnished by the Applicant. This amount was also reduced from the final payable amount to the Applicant by the Respondents and security furnished to be released to the Applicant.

10. The Applicant had thereafter approached the Office of Prothonotary and Senior Master of this Court for release of the said amount of Rs.28.20 Crores as per directions contained in the Majority Award dated 3rd April, 2019 read with the said Order dated 17th July, 2015 passed by this Court. The Applicant was informed that the

amount was deposited with the Registrar (Judicial-I), Appellate Side and hence, the Applicant was required to approach the office of the learned Registrar.

11. Upon Applicant approaching office of the learned Registrar, Appellant Side, the Applicant was informed that it was required to take out an Interim Application in the disposed of Writ Petition seeking direction from this Court to release the said amount of R.28.20 Crores with accrued interest. Accordingly, the present Interim Application has been filed.

12. Mr. Rajiv Chavan, learned Senior Counsel for the Respondent No.1 – State, Mr. Rajshekhar Govilkar, learned Senior Counsel for Respondent No.2 – KIDC and Mr. G.S. Hegde, learned Senior Counsel for Respondent No.3 - CIDCO have opposed grant of relief sought for in the present Interim Application. Mr. Chavan has referred to the Affidavit-in-Reply filed on behalf of Respondent Nos.1 and 2, wherein reference is made to a proposal which had been submitted by the Petitioner on 6th November, 2025 to the Executive Engineer, Raigad Irrigation Division, Kolad seeking negotiation on the Majority Award, subject to the condition that KIDC and CIDCO will

not file an Appeal to the Supreme Court of India. In the proposal, the Petitioner has suggested a reduction of the rate of interest awarded from 9% per annum to 6% per annum. Mr. Chavan and Mr. Hegde submitted that in view of the Petitioner submitting the proposal, KIDC and CIDCO have not filed their Appeal before the Supreme Court. He has submitted that the prayer in the Interim Application is required to await the outcome of the Appeal which may be preferred to the Supreme Court of India in the event the proposal is not accepted.

13. We have considered the submissions as well as the opposition to grant of relief sought to in the present Interim Application. The reliance on the proposal of the Petitioner on 6th November 2025 to the Executive Engineer, Raigad Division, Kolad by the KIDC and CIDCO is misplaced. This cannot be used by them as an excuse for filing an Appeal to the Supreme Court of India from the Judgment and Order of the Division Bench of this Court dated 12th August 2025. The proposal has nothing whatsoever to do with the Applicant seeking release of the amount of Rs.28.20 Crores with accrued interest which the Majority Award dated 3rd April, 2019 read

with the said Order dated 17th July, 2015 passed by this Court, have directed.

14. The Applicant has waited for a considerable period of time for release of the amount of Rs.28.20 Crores with accrued interest, which has been awarded to the Applicant and which amount had been deposited by CIDCO in this Court. Till date, there is no stay of the Judgment and Order dated 12th August, 2025 restoring the Majority Award.

15. In that view of the matter, the Applicant is entitled for release of the amount of Rs.28.20 Crores upon the conjoint reading of the reference Order dated 17th July, 2015 with the Majority Award dated 3rd April, 2019. This particularly in view of the Applicant facing hardship due to bank loans taken for executing the project as has been stated in the Interim Application.

16. Accordingly, we pass following order.:

(i) The Registrar Judicial (I) shall release the amount of Rs.28.20 Crore with accrued interest deposited by the

Respondent – CIDCO, to the Applicant on or before 31st December, 2025.

(ii) The Interim Application is disposed of accordingly.
There shall be no order as to costs.

[FARHAN P. DUBASH, J.]

[R.I. CHAGLA, J.]

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Kavita S.J.