

COMMON ORDER BELOW EXH.1 AND EXH.29

In the present matter D.H. has filed an application for withdrawal of amount of Rs.1,28,158/- deposited in this matter under award passed in L.A.C. No.173/2002.

2. Perused record and proceeding. On perusal of record it appears that, present execution petition was filed on 03/11/2007. Thereafter, by way of amendment D.H. has sought for recovery of an amount of Rs.6,88,653/- till the period of 25/08/2018 as per judgment passed in L.A.C. No.173/2002. Later on D.H. has sought for issuance of attachment warrant for Rs.6,88,653/- alongwith interest as per application filed at Exh.15. The said application was allowed on 30/10/2025 and attachment warrant was issued against J.D. under Order 21 Rule 43 of Code of Civil Procedure. But said warrant was not executed as per bailiff report of Exh.17. Thereafter, D.H. has filed an application of Exh.18 for re-issuance of attachment warrant against J.Ds. The said application was also allowed on 04/12/2025. As per bailiff report of Exh. 20 and Exh.21 shows that, J.Ds. have obstructed to bailiff for execution of attachment warrant. On 31/10/2025 letter received from the Civil Judge (Sr.Dn.), Yavatmal to this office stating that, the Executive Engineer, Arunavati Project had deposited an amount of Rs.1,28,158/- against compensation amount of L.A.C.No.172/2002 in their office. The said amount was forwarded to this office vide D.D. No.914094 dtd. 17/10/2025. The said DD was accepted on record. On perusal of report submitted by Assistant Superintendent (Cash & Finance) it appears that, J.Ds. have deposited

an amount of Rs.1,28,158/- vide D.D.No. No.914094 on 17/10/2025 in L.A.C.No. 173/2002 and it was accepted on record.

3. On perusal of record and application, it appears that, J.D. have deposited an amount of Rs. 1,28,158/- in the Court in the L.A.C. No.173/2002. Also, the reports of the Assistant Superintendent (C&F) and concerned Clerk called. Report of dtd 12/02/2026 submitted by the Assistant Superintendent (C&F) shows that, an amount Rs.1,28,158/- is deposited in this Court vide CCD No.263 dated 03/11/2025 towards compensation amount of Judgment delivered by Civil Judge, (Sr.Dn.), Kelapur in L.A.C. No.173/2002. Ld. A.G.P. submitted his say and stating that, suitable order may be passed. Also, applicant has filed his affidavit of Exh.30 stating that, no appeal was preferred by state. The applicant is identified by his learned advocate. The contents of said Judgment shows that, the applicant is entitled to enhance compensation amount of Rs.1,28,158/-.

4. The present matter is pending since 2007. In view of the directions of S.C.M.S. Committee of Hon'ble High Court, Bombay vide letter reference of District Court Yavatmal, O.W.No.55/26/CM/2024 dtd.25/06/2024 the present matter is listed for speedy disposal. Also, in view of directions given by the Hon'ble High Court vide circular bearing No.Insp-I/63/2025 in pursuance of Hon'ble Apex Court order dtd. 06/03/2025 and Civil Appeal Nos. 3640-3642 of 2025 (Periyammal (dead) through Lrs. and others Vs V. Rajmani and anothers), to dispose of pending execution petitions within six months from the date of circular. In view of the directions given by the Hon'ble High Court, it is necessary to dispose of the matter within six

months. There is no progress on behalf of D.H. D.H. as well as his advocate has only intention to prolong the matter. Therefore, on 17/07/2025 and 09/10/2025 order was passed below Exh.1 and matter was kept for dismissal order. Today D.H. absent, his advocate present, no any kind of application filed on record on behalf of D.H. to show progress in the matter.

5. In view of ratio laid down in the cases of *Ram s/o Hanmantrao Sarda v. the State of Maharashtra and others 2007 (1) BCJ 138 & order dated 25th November 2008 in Writ Petition No.13815/2008 (Anandrao v. The State & Anr.)*, there is no requirement to take surety bond from the applicant if, stay order is not in existence for execution of such Award. Considering all above aspects, applicant is entitled to get deposited amount in person, on due verification and on executing indemnity bond by him of like amount. Hence, the following order :-

ORDER

1. Application of Exh.29 is allowed.
2. Assistant Superintendent (C & F) is hereby directed to pay an deposited amount of compensation of Rs.1,28,158/- (Rs. One Lac Twenty Eight Thousand One Hundred Fifty Eight Only) deposited vide C.C.D. No.263, dated 03/11/2025, to the applicant in person on due verification and on executing indemnity bond by him of like amount, of his share on requisite stamp paper.
3. D.H. is directed to take proper and effective steps to show progress in the matter.

4. D.H. is also directed to show progress in matter in view of directions given by the S.C.M.S. Committee of Hon'ble High Court, Bombay vide letter reference of District Court Yavatmal, O.W.No.55/26/CM/2024 dtd.25/06/2024.
5. Both the parties to take note of this order.

Date:26.02.2026
Kelapur.

(K. K. Mane)
Civil Judge (Sr.Dn.),
Kelapur.