

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

INTERIM APPLICATION NO. 7877 OF 2026

IN

WRIT PETITION NO.1759 OF 2017

Konkan Irrigation .. Applicants.
Development Corporation And Anr

In the matter of ..

F.A. Enterprises .. Petitioner

V/S.

Konkan Irrigation .. Respondents
Development Corporation And Anr

Adv. Shilpa Kapil with Chidanand Kapil, Aishwarya Mall and Riya Bhanushali, for petitioner in WP/1759/2017 and respondent in IA/7877/2026.

Mr. Rajiv Chavan, Senior Counsel with Priyanka Chavan, Sonam Pandey, Asmi Desai, Siddhi Bhutada, Anjali Khapre, Shifa Ansari i/by Priyanka Chavan, for the applicant in IA/7877/2026/org. respondents nos. 1 and 2.

Mr. O.A. Chandurkar, Addl. G.P. with Tanu Bhatia, AGP, for the State

Mr. Sandeep Nalawade, Superintendent Engineer, present for KIDC, respondent No. 1.

**CORAM : MANISH PITALE &
SHREERAM V. SHIRSAT, JJ.**

DATE : 14TH OCTOBER 2026.

PC:

1. Heard learned counsel for the parties.
2. By this application, the applicants, original respondent Nos. 1

and 2 concerned with the Konkan Irrigation Development Corporation, have prayed for vacating an ad-interim order dated 7th December 2016 passed in this writ petition, further seeking liberty to commence work on the subject project.

3. The present writ petition concerns the Kalu Dam Project, and the petition was filed by the petitioner being aggrieved by impugned notice issued by the respondent No. 2 to rescind the contract awarded to the petitioner. As far back as on 7th December 2016, a Division Bench of this court, while granting leave to the petitioner to amend the petition and standing over the matter to 20th December 2016, passed a one-line ad-interim order directing that in the meantime, the contracts which were given to the petitioners may not be allotted to any other party.

4. The petition has remained pending for almost 10 years and the ad-interim order has continued to operate. The work on the aforesaid dam, in so far as the contract awarded to the petitioner is concerned came to a standstill. In this backdrop, when this application was listed on 9th January 2026, this court was constrained to pass the following order:

"1. This petition, pending since the year 2016, reveals a sad state of affairs. As far back as on 7th December 2016, this Court while granting leave to amend stood over the matter to 20th December 2016 and in the meanwhile, it was directed that the contracts which were given to the petitioner may not be allotted to any other party.

2. The interim order has continued to operate for the past almost 10 years, as a consequence of which, development work in the form of construction of dam has been stalled.

3. Mr. Waghmare, learned counsel appearing for Mr. Khaire, Advocate who had filed vakalatnama on behalf of respondent Nos.1 and 2, submits that already NOC is given to respondent Nos.1 and 2 to engage another Advocate. Copy of a letter is tendered and the same is taken on record. In that light, Mr. Khaire, is discharged from appearing on behalf of respondent Nos.1 and 2.

4. The learned counsel for the petitioner submits that in connected writ petitions filed by this very petitioner, the respondent Nos.1 and 2 had taken a specific stand, which was noted in paragraph 10 of order dated 8 th June 2021 passed in Writ Petition No. 1755 of 2017 (M/s. F. A. Construction Engineers & Contractors v/s. Konkan Irrigation Development Corporation & Anr.), with connected petitions. Upon taking into consideration the specific stand taken by the respondent Nos.1 and 2 i.e. the Konkan Irrigation Development Corporation, this Court disposed of the writ petitions by directing that the respondent-Corporation shall execute the irrigation projects either through the original petitioner or through an interested party by following due process.

5. It seems that this petition could not be taken up for consideration and it is also not clear as to whether the respondent Nos.1 and 2 have taken an identical stand in this petition.

6. The learned AGP appears for respondent No.3-State and he submits that appropriate instructions can be taken on the question as to whether the ACB enquiry initiated in the present case found any incriminating material concerning the instant project. This would assist this Court in considering as to whether the present petition can also be disposed of on the same lines as Writ Petition No. 1755 of 2017 and connected writ petitions.

7. An additional affidavit shall be filed by the respondent No.3- State within three weeks from today.

8. The officer of the respondent-Konkan Irrigation Development Corporation is present in Court today and it is assured that before the next date of listing, an Advocate shall be engaged for respondent Nos.1 and 2 to assist this Court.

9. List for further consideration on 10th February 2026.
10. The interim order shall continue to operate till then."

5. Today, when the application is taken up for consideration, the learned Senior Counsel for the applicants (original respondent Nos. 1 and 2) submitted that this court may consider passing an order similar to the order dated 8th June 2021 passed by a division bench of this court in Writ Petition No. 1755 of 2017 and connected writ petitions.

6. The said petitions were also filed by this very petitioner. The Division Bench of this court in the said order took into account subsequent developments and in paragraphs 10, 11, and 12 observed as follows:

"10. At the outset we may extract the stand taken by Konkan Irrigation Development Corporation in paragraphs 12 and 13 of the interim application which reads as follows:-

"12. The applicants submit that the report of ACB does not point out any corruption grave irregularities or illegality in the execution of present project. Therefore, as the ACB has closed the enquiry the KIDC has taken a decision to initiate action in respect of administrative irregularities as pointed out by the ACB in its report. It is further submitted that during the pendency of open ACB inquiry the KIDC restructured the old policies and framed new policies so as to avoid any irregularities being committed during the execution of project. However, considering the larger public interest, it is immediate need of an hour to commence the project as early as possible and hence the present application has been filed. Hence, the present interim application has been filed on behalf of KIDC, to expeditiously dispose of the writ petition in accordance with law and to vacate the interim order so that the project can be executed as early as possible in the public interest,

without further legal hindrance.

13. It is further submitted that if this Hon'ble Court vacates the interim relief, a judicious decision will be taken by KIDC to execute the project in the shortest possible time and taking into account that the decision taken by KIDC should not open any further litigation. The applicants therefore submit that the judicious decision would be taken in public interest to execute the present project, either through an interested party or through the petitioner on the same rates, terms and conditions of contract. Hence the present interim application has been filed on behalf of KIDC to expeditiously dispose of the Petition in accordance with law and to vacate the interim order dated 07.12.2016 hereto annexed as exhibit A-2 so that the project can be executed as early as possible in public interest."

11. Having regard to the stand so taken, we modify the interim orders passed in the related writ petitions by giving liberty to Konkan Irrigation Development Corporation to execute the projects through the original petitioner or through an interested party by following the due process.

12. All the writ petitions and the accompanying interim applications and civil applications are accordingly disposed of."

7. In the light of the observations made in the above-quoted portion of the order dated 8th June 2021 passed in Writ Petition No. 1755 of 2017 and connected petitions, it is submitted on behalf of the applicants that the instant application may be allowed by vacating the ad-interim order dated 7th December 2016. It was further submitted that this Court may even consider disposing of the writ petition itself.

8. The learned counsel for the petitioner has vehemently opposed the said prayers made on behalf of the applicants. It is submitted that one of the alternative prayers in the application is for listing the Writ

Petition for final hearing and, therefore, this court may consider setting down the writ petition for final hearing.

9. On the question of stalling of the work on the project, it is submitted that forest clearances were to be obtained by the respondent No.1 corporation and, therefore, the work could not progress. This is seriously disputed by the learned Senior Counsel appearing for the respondent No. 1 corporation, which has filed the present application, to contend that obtaining such clearances was the responsibility of the petitioner. We are not getting into the said controversy.

10. In the light of the above-quoted observations made by the Division Bench of this court in Writ Petition No. 1755 of 2017 and connected petitions, we are inclined to allow this application and vacate the ad-interim order. Appropriate direction can be issued on the same lines as given in the said bunch of petitions.

11. We were considering disposing of the Writ Petition itself, but for the fact that the learned counsel for the petitioner submits that other issues requiring consideration in the Writ Petition may warrant a hearing of the Writ Petition.

12. In view of the above, the application is allowed in terms of prayer clause (a). Consequently ad-interim order dated 7th December 2016 is vacated.

13. In that light, the respondent No.1 corporation is at liberty to take necessary steps for floating a fresh tender for the subject works wherein all interested parties, including the petitioner, would be at liberty to participate.

14. The application stands disposed of.

(SHREERAM V. SHIRSAT, J.)

(MANISH PITALE, J.)