

IN THE HIGH COURT OF BOMBAY AT GOA.
MISC.CIVIL APPLICATION NO. 343 OF 2015
IN
APPEAL UNDER ARBITRATION ACT NO. 1 OF 2014

SHRI. K.K. JOHN, THROUGH HIS
P.O.A. SHRI. M. C. CHACHAPPAN Applicant.

Versus

THE STATE OF GOA, REP. BY THE
EXECUTIVE ENGINEER WORKS DIVISION
XII. ... Respondent.

Mr. S. G. Desai, Senior Advocate with Mr. Sandesh D. Padiyar,
Advocate for the applicant.

Mr. M. Salkar, Government Advocate for the respondents.

Coram:- C. V. BHADANG, J.

Date:- 11th August, 2015

P.C.

By this application, the applicant(original respondent) is seeking withdrawal of the amount of Rs.89,64,414/- which is deposited by the non-applicant/State(original appellant) on 6.5.2015 in terms of the award passed by the learned Arbitrator which has been confirmed by the learned District Judge, in an application under Section 34 of the Arbitration and Conciliation Act, 1996 ("the Act" for short).

2. This Court by an order dated 27.2.2015 had granted interim stay

subject to the non-applicant(original appellant) depositing the amount before this Court. The question as to whether the respondent is to be permitted to withdraw the amount and on what conditions, was directed to be considered after the amount is deposited. It is in pursuance of the said Order dated 27.2.2015 in Civil Application No. 13/2015 that the non-applicant/State has deposited the amount.

3. It is submitted by Shri Desai, the learned Senior Counsel appearing for the applicant that the total amount payable to the applicant as per the award works out to Rs.1,21,57,276/- out of which State has deposited an amount of Rs.89,64,419/-. It is submitted that thus there is deficit of more than Rs.31,00,000/- between the amount due and the amount deposited. He, therefore, submits that entire amount be allowed to be withdrawn on such conditions as may be deemed fit.

4. It is submitted that the award once confirmed in an application under Section 34 of the Act, assumes finality and becomes executable. The learned Senior Counsel has relied upon the decision of the Supreme Court in the case of Kanpur Jal Sansthan and another Vs. Bapu Constructions, reported in (2015) 5 Supreme Court Cases, 267, in

which the Hon'ble Supreme Court has allowed the withdrawal of the entire amount on the condition of furnishing security to the satisfaction of the learned District Judge.

5. Respondent/State has not filed any formal reply. It is submitted by Mr. Salkar, the learned Government Advocate that appropriate orders be passed in order to secure the interest of the State, in the event non-applicant/State succeeds in the appeal.

6. On hearing the learned counsel appearing for the parties, I find that the applicant can be allowed to withdraw 75% of the amount deposited alongwith pro-rata interest on furnishing security to the satisfaction of the learned Registrar (Judicial) of this Court. Applicant shall be further permitted to withdraw remaining 25% of the amount alongwith pro-rata interest deposited on furnishing Bank Guarantee within a period of one month from today. If, Bank Guarantee is not furnished within a period of one month, the amount shall be invested in any Nationalised Bank initially for a period of one year, subject to further orders.

7. Application is disposed of in the aforesaid terms.

C. V. BHADANG, J.

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