

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

ARBITRATION APPEAL NO.34 OF 2014

...
 Kolhapur Sahakari Dudh Utpadak Sangh Ltd. & Anr. ...Appellants
 vs
 Dilip Appasaheb Dhamal ...Respondent
 ...

Mr.Y.S.Jahagirdar, Sr.Advocate with Mr Amit B Borkar for the Appellants.
 Mr.Y.K.Tiwari with Ms.Hrbans Kaur and Mr.Rajesh Phevwani i/b
 M/s.K.P.Tiwari for the Respondent.
 ...

CORAM : A.A. SAYED, J.

DATED : 9 JANUARY 2015

P.C.

This Arbitration Appeal filed under section 37 of the Arbitration & Conciliation Act, 1996 challenges an exparte ad-interim order dated 9 December 2014 passed by the District Judge, Thane in an Application below Exh."5" filed under section 9 of the said Act.

2. The impugned order reads as under:-

ORDER

Heard Advocate. Seen Affidavit of Dilip (today's affidavit).
 Seen the terms of agreements.

Issue notice to the Respondents with interim injunction in terms of prayer (b) of the application. Notice r/o 16-12-2014.
 S.S. Allowed.

3. Learned Counsel for the Appellants points out that the impugned order is an ex parte ad-interim order. It is noticed that the impugned order was passed on 9 December 2014 and has continued till date i.e. 9 January 2015. The Court is informed that the next date before the Trial Court is 11 February 2015.

4. In the nature of order that I propose to pass, it is not necessary for me to go into merits of the matter. Suffice it to state that I am not inclined to interfere with the impugned order at this stage except to the extent indicated hereinbelow.

5. Taking an overall view of the matter, in my opinion the following order would meet the ends of justice:

(i) Inasmuch as the impugned order is an ex parte order and does not contain any reasons, the date of hearing of the Application at Exh."5" before the Trial Court shall stand pre-poned to 19 January 2015. The Trial Court shall decide on the continuation of the ex parte ad-interim injunction, after hearing the Appellants on that date.

(ii) Learned Senior Counsel for the Appellants states that the Affidavit-in-Reply to the Application at Exh."5" shall be filed and copy thereof shall be served upon the Advocate for the Respondent appearing in the Trial Court, by 15 January 2015.

(iii) Learned Counsel for the Respondent fairly states that no fresh notice would be necessary to the Respondent of the next date i.e. 19 January 2015.

(iv) It is reiterated that this Court has not gone into merits of the matter and the Trial Court shall decide the same on its own merits and in accordance with law.

(v) Notwithstanding the above, it is clarified that it would be open for the parties, if they so agree, to the disposal of the Application itself within an agreed time-frame.

6. The Petition is disposed of in the aforesaid terms. No costs.

(A.A. SAYED, J.)

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