

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION NO.18 OF 2015
IN
ARBITRATION APPEAL NO.15 OF 2014

M/s. Yadav Consultancy Services
Pvt. Ltd. Applicant
IN THE MATTER BETWEEN
Bank of India Appellant

V/s

M/s. Yadav Consultancy Services
Pvt. Ltd. & Ors. Respondents

WITH
ARBITRATION APPEAL NO.15 OF 2014

Bank of India Appellant
V/s

M/s. Yadav Consultancy Services
Pvt. Ltd. & Ors. Respondents

Mr. Prakash Yadav Applicant (Respondent No.1) party in person.

Mr. O.A. Das for Appellant-Bank.

CORAM : A.A. SAYED, J.

DATED : 22 JUNE 2015

P.C.

1 This Civil Application is filed by the Applicant/original Respondent No.1 seeking the following reliefs:

“16. It is therefore prayed that:

(a) The Applicant prays that he be paid the amount of Rs.1,93,22,590/- deposited by Petitioner which is lying

with the Ld. District Judge/Registrar, Pune in partial compliance of sec 19 of the MSMED Act. The same amount could be deducted from total payable amount after adjudication.

Any other order in the interest of justice.”

2 The Arbitration Appeal No.15 of 2014 was admitted on 11 July 2014. On the same date i.e. 11 July 2014 an order was passed in Civil Application No.17 of 2014 taken out by the Appellant Bank which reads as follows:

“Execution and implementation of the order passed by the Extra Joint Ad-hoc District Judge-I, Pune on Exhibit-28 in M.A. No.352 of 2013 on 16/06/2014 and the arbitral award is stayed until further orders.

2. Mr. Kamdar, learned senior counsel appearing for the applicant submits that pursuant to the order passed by this Court in arbitration petition, applicant has already deposited the entire amount. Respondents will not be allowed to withdraw the said amount until further orders.”

The Applicant thereafter took out the present Civil Application No.18 of 2015 seeking the reliefs as set out in para 1.

3 In the meanwhile, the aforesaid order dated 11 July 2014 was carried to Supreme Court by the Applicant and an order dated 20 April 2015 was passed by the Supreme Court which reads as under:

“Heard the petitioner-in-person, Mr. Prakash Yadav, the Managing Director of the Petitioner-Company.

Regard being had to the nature of the order passed on 16.07.2014 by the High Court of Judicature at Bombay, we are not inclined to interfere. However, we request the High Court to dispose of the ARA No.15 of 2014 by the end of September 2015. We have made such a request as the High Court has granted stay against the execution of an award passed in an arbitral proceeding.

With the aforesaid observations and request, the special leave Petitions stand disposed of.”

4 The Applicant/Respondent No.1 represented by its Managing Director Mr. Prakash Yadav, appearing in person, has drawn my attention to section 19 of the Micro, Small and Medium Enterprises Development Act, 2006 which reads as follows:

19. Application for setting aside decree, award or order.-

No application for setting aside any decree, award or other order made either by the Council itself or by any institution or centre providing alternate dispute resolution services to which a reference is made by the Council, shall be entertained by any court unless the appellant (not being a supplier) has deposited with it seventy-five per cent of the amount in terms of the decree, award or, as the case may be, the other order in the manner directed by such court: Provided that pending disposal of the application to set aside the decree, award or order, the court shall order that such percentage of the

amount deposited shall be paid to the supplier, as it considers reasonable under the circumstances of the case subject to such conditions as it deems necessary to impose.

5 According to the Applicant/Respondent No.1 in view of section 19 of the Micro, Small and Medium Enterprises Development Act, 2006 he is entitled to a direction that the amount deposited by the Appellant Bank in the District Court, Pune be paid over to him.

6 Having regard to the order passed by the Supreme Court dated 20 April 2015, whereby this Court is requested to dispose of the Appeal itself by the end of September 2015, I am not inclined to pass any order on the Civil Application. Admittedly, the entire amount has already been deposited by the Appellant Bank in the District Court.

7 List the Appeal for final hearing on 15 July 2015.

8 With aforesaid direction, the Civil Application is disposed of.

(A.A. SAYED, J.)

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