

pmw

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.11385 OF 2014

M/s. B.M. Chapalkar and Sons

... Petitioner

Versus

The State of Maharashtra and Ors.

... Respondents

Mr. Chandrakant Chandratre, for the Petitioner.

Mr. V.S. Gokhale, AGP, for the Respondent Nos.1 to 3.

CORAM : A.S. OKA &
K.R. SHRIRAM, JJ.

DATE : 19th AUGUST, 2015

PC.

. Notice for final disposal was issued on 8th June, 2015. The Petitioner's tender was accepted by the second and third Respondents. As there was some dispute regarding the payment of amount to the Petitioner, in accordance with clause No.24.1 of the terms and conditions of the Contract, the dispute was referred to the Adjudicator. The Adjudicator held that the Petitioner is entitled to a sum of approximately Rs.17.43 Lakhs.

2. By a communication dated 22nd September, 2014, the Executive Engineer informed the Petitioner that a decision has been

taken to refer the matter to an Arbitrator in terms of clause 25.1 of the agreement.

3. It is pointed out that the time prescribed for referring the matter to the Arbitrator as provided in clause 25.2 expired long before 22nd September, 2014. Today, the learned AGP has tendered across the Bar a letter dated 26th June, 2015 addressed to the learned AGP by the Assistant Chief Engineer of Water Resource Department of the State Government, North Maharashtra Region, Nashik. The said letter records that the decision of the Adjudicator has been accepted and, therefore, a demand has been submitted to the State Government for release of necessary amount. The letter records that as soon as funds are released, the amount will be paid to the Petitioner. The said letter is taken on record and marked 'X' for identification. In view of the said letter, we dispose of the Petition by passing the following order :-

ORDER

- (i) We direct the Respondents to pay the amount due and payable as per the adjudication made by the Adjudicator in accordance with clause 24.1 of the terms of the Contract to the Petitioner as expeditiously as possible and in any event within a period of three months from today;

- (ii) On failure of the Respondents to pay the amount within a period of three months from today, it will be open for the Petitioner to apply to this Court for modification of this order for the purpose of granting interest;
- (iii) The Petition is disposed of on above terms.

(K.R. SHRIRAM, J)

(A.S. OKA, J)

Certified to be true and correct copy of the original signed
Judgment/order