

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 9882 OF 2014

M/s. Aditya Builder and
Contractors and ors.

.. Petitioners

VS.

Gurunath R. Narvekar, Proprietor
M/s. Vastu Kripa Developers,
since deceased through Lrs.

1a) Samir G. Narvekar and ten ors.

.. Respondents

AND

WRIT PETITION NO. 9883 OF 2014

M/s. Aditya Builder and
Contractors and ors.

.. Petitioners

VS.

Gurunath R. Narvekar, Proprietor
M/s. Vastu Kripa Developers,
since deceased through Lrs.

1a) Samir G. Narvekar and two ors.

.. Respondents

Mr. Avinash Avhad i/b Mr. Mahesh Rawool for the Petitioners
Mr. Dilip Rai i/b Mr. Ajay Rao for Respondent Nos.1a and 1b.

CORAM : M. S. SONAK, J.

DATE : 6 JANUARY, 2015

P.C. :-

1] Writ Petition No. 9882 of 2014 is not on board. Upon mentioning, taken on board.

2] These petitions can be disposed of with a common order, particularly since they challenge identical orders made in arbitration appeals by the District Judge, Sindhudurga.

3] The challenge in these petitions is against the orders dated 17 September 2014, by which the District Judge has declined to grant interim reliefs to the petitioners, by way of restraining the execution of certain interim measures directed by the Arbitral Tribunal.

4] Mr. Avinash Avhad, learned counsel for the petitioners submits that the main reason which prompted the District Judge to dismiss the applications for interim relief was its interpretation of Section 5 of the Arbitration and Conciliation Act, 1996 ("*said Act*") which provides that in matters governed by Part-I, no judicial authority shall intervene except where so provided in the said Part. Learned counsel submits that if this interpretation is stretched any further, then perhaps the District Judge may decline to even entertain the appeals preferred by the petitioners, notwithstanding the provisions contained in Section 37 of the said Act.

5] The apprehension expressed by the learned counsel for the petitioners cannot be said to be justified. Section 37(2) of the said Act, very clearly provides that an appeal shall lie to a Court from an order of the Arbitral Tribunal granting or refusing to grant an interim measure under Section 17 of the said Act. Section 37 of the said Act

is very much a provision contained in Part-I of the said Act. In such circumstances, there is no question of the provisions of Section 5 of the said Act coming in the way of the District Judge deciding the appeal under Section 37 (2) of the said Act.

6] Learned counsel for the petitioners also attempted to make submissions on the merits of the matter. However, the impugned orders have merely declined interim relief in pending appeals. In the peculiar facts of these case, ends of justice would be met if the District Judge decides the main appeals itself expeditiously and in any case within a period of three months from today.

7] Accordingly, present petitions are not entertained. However, the District Judge is directed to dispose of the main appeals, i.e., Arbitration Appeal Nos.1 of 2014 and 2 of 2014 expeditiously and in any case within a period of three months from today. Such disposal shall be on merits and in accordance with law.

8] It is clarified that pendency of these appeals shall in no manner be made use of for the purposes of delaying the proceedings before the Arbitral Tribunal.

9] With the aforesaid, Writ Petition No. 9882 of 2014 and Writ Petition No. 9883 of 2014 are disposed of.

(M. S. SONAK, J.)

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