

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
NOTICE OF MOTION NO. 583 OF 2015
IN
ARBITRATION PETITION NO.642 OF 2012

M/s.Suvidha Engineers India Pvt.Ltd. Petitioner

VERSUS

M/s.Shirdi Country Inns Pvt.Ltd. Respondent

Mr.L.B.Rai for the Applicant in NMS.

Mr.Raju Singh, a/w. Mr.Dilip Satade, i/b. Mulani & Co. for the Respondent/Original Petitioner.

CORAM : R.D. DHANUKA, J.

DATED : 17th JUNE, 2015

P.C.

By this notice of motion, the applicant seeks order and direction directing the Prothonotary and Senior Master to release amount of Rs.12,00,000/- alongwith interest accrued thereon in favour of the applicant.

2. Pursuant to the order passed by this court, the original petitioner has deposited the said amount in the office of the Prothonotary and Senior Master. It is not in dispute that by an order and judgment dated 13th January, 2015 this court has already rejected the Arbitration Petition No.782 of 2014 filed by the original petitioner under section 34 of the Arbitration and Conciliation Act, 1996 impugning the arbitral award which was rendered in favour of the applicant herein. This court while rejecting the said arbitration petition also rejected the oral application made by the original petitioner to not to permit the applicant herein to withdraw the amount of Rs.12 lacs deposited by the original petitioner in this

court. After considering the application made by the original petitioner and the objections of the applicant herein, this court rejected the said application on the ground that the petition filed by the original petitioner was thoroughly frivolous and did not fall under any of the grounds set out under section 34 of the Arbitration and Conciliation Act, 1996.

3. Learned counsel appearing for the original petitioner states that the appeal against the said order and judgment dated 13th January, 2015 has been filed and is likely to be listed for admission in the month of July 2015.

4. Learned counsel appearing for the applicant on the other hand submits that the applicant having succeeded in the arbitration petition and the oral application of the original petitioner for not permitting the applicant to withdraw the amount is already rejected, this court be pleased to permit the applicant to withdraw the said amount. Learned counsel appearing for the applicant fairly states that the applicant is ready and willing to furnish security to the satisfaction of the Prothonotary and Senior Master which may be even including the bank guarantee. Statement is accepted.

5. I am inclined to accept the prayer of the applicant to direct the Prothonotary and Senior Master to permit the applicant to withdraw the said sum of Rs.12 lacs with accrued interest thereon on the applicant's furnishing security to the satisfaction of Prothonotary and Senior Master which may be the bank guarantee of a nationalised bank. It is ordered accordingly.

6. Notice of Motion is disposed of in the aforesaid terms. No order as to costs.

[R.D. DHANUKA, J.]