

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

APPEAL (L) NO.553 OF 2015
IN
ARBITRATION PETITION NO.1185 OF 2014

Ajay Transport Co.

Appellant

versus

L & T Finance Limited

Respondent

Mr.Yogendra Singh i/by Auris Legal for appellant.

Mr.Anand Poojari with Ms.Shakuntala Joshi and Nikita Pawar
i/by S.I.Joshi & Co. for respondent.

Mr.Jagdish Bhikubha Singh s/o.Bhikubha Singh, partner of
appellant, is present.

CORAM : MOHIT S. SHAH, C.J. AND
A.K.MENON, J.

DATE : 31 July 2015

PC :

This appeal is directed against the judgment and order dated 6 August 2014 of learned Single Judge of this Court dismissing the appellant's petition under Section 34 of the Arbitration and Conciliation Act, 1996. The appellant had challenged the arbitral award dated 7 November 2012 by which appellant was directed to pay a sum of Rs.1,09,60,760/- consisting of overdue installment amounts, future loan installments, overdue compensation etc. as on 29 May 2012.

Further, the appellant was directed to pay interest @ 36% p.a. on the said sum of Rs.1,09,60,760/- from 30 May 2012 to 23 July 2012 and @ 24% p.a. from 24 July 2012 till payment and/or realisation. The appellant was further directed to pay costs of arbitration fixed at Rs.25,000/- and fees of the arbitration fixed at Rs.30,000/- totaling to a sum of Rs.55,000/-.

2. At the hearing of this appeal, the learned counsel for the parties state, under instructions of their respective clients, that the respondent L & T Limited Finance Limited has agreed to accept from the appellant in full and final settlement of their entire claim with interest and costs, a total sum of Rs.90,00,000/- (Rs.Ninety lakhs only), if the amount is paid within six months from today. The learned counsel for the appellant states, under instructions, that the appellant shall pay the above amount of Rs.90,00,000/- to the respondent within six months from today.

3. The learned counsel for the parties further state that the parties agree that the execution proceedings will remain pending but the respondent shall not proceed further in execution, if the appellant keeps the Executing Court informed about the developments every month. The appellant shall first intimate the Executing Court on 31 August 2015 and later on, on the last working day of every month.

4. The learned counsel for the appellant further prays that since the appellant firm has appeared in this Court and the appellant undertakes to appear before the Executing Court every month as referred above, the warrant issued by the Executing Court for securing attendance of the partners of the firm may be cancelled or discharged.

5. In view of the above arrangement between the parties, it is also agreed that the appellant shall not sell, mortgage, part with possession and/or otherwise dispose of the properties described in the affidavit of disclosure dated 10 July 2015 without the leave of the Executing Court. When the appellant is able to get a prospective buyer, the appellant will inform the Executing Court and will sell the property with the leave of the Executing Court. At that time, it will be open to the Executing Court to direct that the buyer shall deposit the sale consideration or a sum of Rs.90,00,000/- with the Prothonotary & Senior Master of this Court. It is clarified that the buyer himself will not have to move the Executing Court or appear before the Executing Court but upon deposit of the amount of Rs.90,00,000/- with the Prothonotary & Senior Master of this Court within six months from today, the buyer will get a discharge. If any extra consideration over and above Rs.90,00,000/- is to be paid by the buyer on purchase of the property, it will be open for the appellant to retain such excess amount.

6. In view of the above statement and undertakings given by the learned counsel for the appellant, under instructions of Mr.Jagdish Bhikubha Singh who is present in Court and who is a partner of appellant, which undertaking this Court has accepted, we discharge the warrant issued against the appellant and its partners.

7. It is clarified that in case of default, the appeal will stand dismissed and the respondent will be at liberty to proceed in execution.

8. The appeal stands disposed of in the above terms with no order as to costs.

(CHIEF JUSTICE)

(A.K.MENON, J.)