

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
ARBITRATION PETITION (L) NO. 1517 OF 2015

Archdeep Interior Private Limited **Petitioner**
VERSUS
Century Textiles and Industrial Limited & Anr. **Respondents**

Dr.B.Saraf, i/b. Khaitan & Co. for the Petitioner.

Mr.R.Kharwalla, i/b. R.K.Associates for the Respondents.

CORAM : R.D. DHANUKA, J.

DATED : 27th JULY, 2015

P.C.

Papers are allowed to be produced at 3.00 p.m. in view of the urgency made out by the petitioner.

2. By this petition filed under section 9 of the Arbitration and Conciliation Act, 1996, the petitioner seeks injunction in respect of the bank guarantee described in prayer clause (a) of the petition.

3. By consent of parties, the matter is disposed off at the ad-interim stage. Dr.Saraf, learned counsel appearing for the petitioner states that the respondents have illegally reduced the scope of work awarded to the petitioner and at the same time has addressed a letter to the respondent no.2 bank for encashment of advance payment guarantee annexed at Ex.C and amended on 2nd March, 2015 which is annexed at Ex.I to the petition.

4. Learned counsel appearing for the respondent no.1 on the other hand invited my attention to the advance payment guarantee at Ex.C and submits that the bank

guarantee is unconditional and the bank cannot refuse to make payment even if there is any dispute between the employer and the contractor. He submits that the respondent no.1 has already addressed a letter to the respondent no.2 bank for encashment of the bank guarantee in question. He submits that no injunction thus can be granted by this court in respect of the bank guarantee in question.

5. A perusal of the provisions of the advance payment guarantee clearly indicates that the liability of the bank to make payment to the employer is not discharged, released, affected or impaired by reasons of any one or more of five circumstances mentioned therein which includes any dispute between the employer and the contractor. If according to the petitioner, the scope of the work awarded to the petitioner is illegally reduced by the respondent or there are any other claims of the petitioner against respondent no.1, the same can be decided by the learned arbitrator. In my view no injunction thus can be granted in respect of the bank guarantee in question.

6. The petition is devoid of merits and is accordingly dismissed. No order as to costs.

[R.D. DHANUKA, J.]