

drp

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

CIVIL APPLICATION NO.15054 OF 2015
IN
ARBITRATION APPLICATION NO.3 OF 2007

M/s R. Z. Malpani

APPLICANT

VERSUS

Union of India & others

RESPONDENTS

.....

Mr. P. R. Katneshwarkar, Advocate for the applicant

Mr. P. G. Godhamgaonkar, Advocate for respondents No.1 to 3

.....

[CORAM : SUNIL P. DESHMUKH, J.]**DATE : 28th JANUARY, 2016****ORDER :**

1. Taking into account the opinion expressed by the arbitrators, this civil application has been moved by the applicant seeking withdrawal of Arbitration Application No.3 of 2007 with liberty to enable the applicant to prosecute proper remedies for the claims being made by the applicant against the respondents.

2. Mr. Godhamgaonkar, learned advocate appearing for the respondents has all the apprehensions that the liberty can be misused and further that whether the court would be able to grant such liberty, having regard to provisions of the Arbitration and Conciliation Act.

3. It will also have to be looked into that withdrawal of the matter is an absolute discretion and right of the party concerned, however, as far as the liberty sought is concerned in this particular matter, it may not be necessary, for, it would be always open for the litigant to prosecute such remedies which are deemed to be appropriate and proper, which may be available in law. Further, in such a prosecution it would be incumbent on the authorities concerned to take into account all the defences and resistances by the other side to the maintainability of the same, having regard to facts, circumstances and law.

4. With aforesaid observations, the civil application, to the extent of withdrawal is allowed and disposed of. Withdrawal simplicitor would not be an impediment for the applicant to prosecute such remedies as are deemed to be proper in law. The authorities before whom prosecution would be launched, would consider all the defences taken up against the prosecution of such remedies, including maintainability of such prosecution.

[SUNIL P. DESHMUKH, J.]

drp

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

ARBITRATION APPLICATION NO.3 OF 2007

M/s R. Z. Malpani

APPLICANT

VERSUS

Union of India & others

RESPONDENTS

.....

Mr. P. R. Katneshwarkar, Advocate for the applicant

Mr. P. G. Godhamgaonkar, Advocate for respondents No.1 to 3

.....

[CORAM : SUNIL P. DESHMUKH, J.]

DATE : 28th JANUARY, 2016

ORDER :

1. In view of order passed in civil application No.15054 of 2015, today, i.e. on 28th January, 2016, this arbitration application stands disposed of as withdrawn to the extent referred to in the order passed in the civil application.
2. All pending civil applications, as such, stand disposed of.

[SUNIL P. DESHMUKH, J.]

drp/ca15054-15