

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

42 WRIT PETITION NO. 10629 OF 2015

VITHAL KRUPA GINNING AND PROCESSING FACTORY
THROUGH ITS PROPRIETOR ARJUN GOVIND
BACHEWAR
VERSUS
OSMANABAD JANATA SAHAKARI BANK LTD THROUGH
ITS BRANCHMANAGER

Shri. Milind Patil, Advocate, for petitioner.

Shri. S.B. Choudhari, Advocate, for respondent No.1.

CORAM: T.V. NALAWADE, J.

DATE : 13 DECEMBER 2016

ORDER:

1) The petition is filed to challenge the order made on Exhibits 17 and 21 by the learned Principal District Judge Latur in Regular Darkhast (Arbitration) No.108/2010. Both the sides are heard.

2) The award given by the Arbitrator under section 84(4) of the Multi State Cooperative Societies Act 2002 is put for execution by the respondent bank. Application at Exhibit 17 was filed by the bank for issuing

attachment warrant for recovery of the amount given under the award and application at Exhibit 21 was filed by present petitioner, debtor, to challenge the jurisdiction of the Arbitral Tribunal.

3) It is not disputed that as the proceeding under section 34 of the Arbitration and Conciliation Act 1996 was not filed in time, the proceeding itself was dismissed and the award has become final. Provision of section 34 shows the grounds on which the award can be challenged. The provision shows that the ground of jurisdiction also can be raised in the proceeding which can be filed under section 34 of the Arbitration and Conciliation Act 1996. Separate scheme is given under the Arbitration and Conciliation Act 1996 and also under the Multi State Cooperative Societies Act 2002 for giving decision on such disputes. In spite of these circumstances the petitioner is trying to protract the execution of the award by making many contentions.

4) It can be said that he had filed application before the executing Court for giving direction to the bank

to produce list of panel of Arbitrators prepared under the Act and under section 84(4) of the Multi State Cooperative Societies Act. Learned counsel for the petitioner submitted that unless and until that application is decided, the Court ought not to have decided the applications at Exhibits 17 and 21. This submission is not at all acceptable in view of the aforesaid provision, section 34 of the Arbitration and Conciliation Act. The petitioner had come to this Court in the past also at least on one occasion to challenge the order by which the District Court had rejected the application filed to condone delay caused in filing proceeding under section 34 of the Act. It appears that in the past certificate was issued under section 101 to the bank when it was not registered under the Multi State Cooperative Bank Act 2002. The said certificate was cancelled and in the meantime the aforesaid Act of 2002 was made applicable to the bank and so bank used the provision of section 84(4) of the Act. When such a proceeding is taken and award has become final the Court is expected to go with presumption that everything was done as per procedure laid down by law as provided under section 114 of the Evidence Act. It is clear

that the petitioner is trying to only protract the things. Learned counsel for the petitioner submitted that another petition is filed before Division Bench in this Court in which all the things are challenged. This Court is avoiding to consider those contentions made by the petitioner in the said proceeding. For the present purpose aforesaid discussion is sufficient. There are no merits in the present proceeding. The petition stands dismissed. Interim relief is vacated.

Sd/-
(T.V. NALAWADE, J.)

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