

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

**ARBITRATION APPEAL NO. 15 OF 2016
WITH
CIVIL APPLICATION NO. 10 OF 2016**

Union of India
Through Executive Engineer, CPWD, Nashik ... Appellant

vs.

Sugasa Enterprises ... Respondent

Mr. Y. S. Bhate a/w D. R. Shah, Advocate for the appellant.

Mr. Mahindra B. Deshmukh, Advocate for the respondent.

Coram : Smt. R. P. SondurBaldota, J.

Date : 23rd September, 2016

P. C. :

1. This appeal is filed under Section 37 of the Arbitration and Conciliation Act, 1996 ('the Act', for short) to challenge the order dated 14th September, 2015 passed by the Principal District Judge, Nashik on the application of the appellant under Section 34 of the Act to challenge the Arbitral Award dated 24th June, 2009. The appellant is the Union of India. It had, on 25th May, 2007, invited tenders for work of providing and fixing Steel Mesh with Angle Iron Frame work at CSD Shop Floor of I.S.P. Nashik road on third floor. The estimated cost of work was Rs.32,27,726/- and the time limit for completion thereof was of nine months. The date of starting the work was by 26th August, 2007 and it was to be completed to 22nd May, 2008. The respondent's tender was accepted on 13th

June, 2007 and it started the work on 26th August, 2007 and completed on or before 25th May, 2008. Admittedly, the petitioner had some difficulty as regard the availability of funds to be paid to the respondent for carrying of the work and it has requested the respondent to stop the work on 18th December, 2007. Thereafter on receipt of funds it was requested to start the work on 9th January, 2008.

2. Drawing of the work was required to be furnished by the petitioner to the respondent. According to the petitioner, as claimed in their letter dated 23rd February, 2008 the drawings were handed over to the legal representative of the respondent. But admittedly the same were handed over to a worker at site and not to the representative of the respondent. In that circumstance, it cannot be said that the drawings had been furnished to the respondent. These aspects have been considered by the learned Arbitrator and later the learned Principal District Judge, Nashik while considering the Arbitral Proceedings and the application to challenge the award under Section 34 of the Act. There is no infirmity whatsoever in the impugned award and the impugned order of the learned Principal District Judge, Nashik, considering the above material, the appeal is therefore dismissed. The respondent is at liberty to withdraw the amount deposited by the petitioner in the District Court, Nashik, pursuant to the orders passed by this Court.

3. In view of dismissal of the appeal, the civil application does not survive. The same is accordingly disposed off.

[Smt. R. P. SondurBaldota, J.]