

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

**ARBITRATION PETITION NO.1631 OF 2015
WITH
NOTICE OF MOTION NO.729 OF 2016**

Arch Phramalabs LimitedPetitioner

V/s.

Krishna Solvechem Ltd.Respondent

Ms.Tasneem Zariwala i/by Vidhi Partners for petitioner.

None for the respondent.

**CORAM : K.R.SHRIRAM,J
DATE : 18.8.2016**

P.C.:-

1 Ms.Tasneem Zariwala appearing for the petitioner states that under Section 19 of the Micro, Small and Medium Enterprises Development Act 2006, the petitioner has to deposit 75% of the amount in terms of the award as condition precedent for the court to entertain this petition. The counsel states that they are not in a position to deposit this amount. Moreover, it is also stated by the counsel across the bar, that winding up petition against the petitioner has been admitted by this court and the Official Liquidator is appointed as provisional liquidator of the petitioner. The company has also filed a reference to BIFR for reconstruction.

2 Section 19 of the Micro, Small and Medium Enterprises Development Act, 2006 reads as under :-

“19. Application for setting aside decree, award or order :- No application for setting aside any decree, award or other order made either by the council itself or by any institution or centre providing alternate dispute resolution services to which a reference is made by the council, shall be entertained by any Court unless the appellant (not being a supplier) has deposited with it seventy five per cent of the amount in terms of the decree, award or as the case may be, the other order in the manner directed by such Court :

Provided that pending disposal of the application to set aside the decree, award or order, the court shall order that such percentage of the amount deposited shall be paid to the supplier, as it considers reasonable under the circumstances of the case, subject to such conditions as it deems necessary to impose.”

3 Therefore, no application can be entertained by this court unless the appellant has deposited 75% of the amount in terms of the award. The counsel also states that the petitioner is not a supplier. In view of the categorical statement made by the counsel for the petitioner that the company is not in a position to comply with the precondition. Petition stands dismissed.

4 In view of the above, Notice of Motion also stands dismissed.

(K.R.SHRIRAM,J)