

FARAD CONTINUATION SHEET NO.

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELLATE SIDE, BENCH AT AURANGABAD

WRIT PETITION NO.4398 OF 2015

**Patil Constructions and Infrastructure Pvt.Ltd. Vs. The
State of Maharashtra and others.**

WITH

CIVIL APPLICATION NO.4116 OF 2016

IN

WRIT PETITION NO.4398 OF 2015.

Office Notes, Office Memoranda of Coram, appearances, Court's orders or directions and Registrar's orders.	Court's or Judge's orders
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Mr.S.B.Talekar, advocate for the petitioners.
Mr.P.S.Patil, Additional Government Pleader for the
State.
Mr.R.S.Deshmukh, advocate for Respondent Nos.2 to 5.

**CORAM : S.V.GANGAPURWALA AND
K.L.WADANE, JJ.**

Date : 20.02.2017.

PER COURT :

1. Heard.
2. Under order dated 4.4.2016, this Court had observed that the present petition is being considered only to the limited extent of prayer clause (D). It was further observed in the order that for prayer clause (C), the petitioner intends to invoke Arbitration clause in the agreement.
3. Mr.Talekar, learned counsel submits that as per the agreement, it is not the duty of the petitioner to shift 11 K.V.

Transformers on the subject site, whereas according to Mr.Deshmukh, learned counsel for the Municipal Corporation, as per terms of the agreement, it is the duty of the contractor to bear the charges for shifting 11 K.V. Transformers.

4. MSEDCL has filed affidavit. As per affidavit, if the same is required to be shifted, the same will have to be shifted in two parts, for which approximate expenditure would be Rs.57,10,588/- (Rupees fifty seven lacs ten thousand five hundred eighty eight only).

5. The petitioner and the Respondent Municipal Corporation are not at ad-idem as to who is to bear the said charges for shifting 11 K.V. Transformers. According to the petitioner, it is the MSEDCL who has to bear the charges and according to Municipal Corporation, the petitioner has to bear the said charges as per the agreement and tender documents.

6. The petitioner and Municipal Corporation have to settle the dispute as to who has to bear the charges in accordance with the agreement.

7. The petitioner has shown his inclination to move the Arbitrator.

7. In view of that we dispose of the Petition with liberty to the petitioners to approach the Arbitrator, so also may take further measures U/s 9 of the Arbitration and Conciliation Act, as may be

permissible under law.

8. The Writ Petition is disposed of. No costs.
9. The Civil Application also stands disposed of.

(K . L . WADANE , J .)

(S . V . GANGAPURWALA , J .)

Dt.20.02.2017.
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