

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 841 OF 2017
WITH WP/842/2017 WITH WP/843/2017 WITH WP/844/2017
WITH WP/845/2017 WITH WP/846/2017 WITH WP/847/2017
WITH WP/848/2017 WITH WP/849/2017 WITH WP/850/2017
WITH WP/851/2017 WITH WP/852/2017 WITH WP/853/2017
AND WP/854/2017

PRABHU SANDU TUPE
VERSUS
ZILLA PARISHAD JALNA

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Advocate for Petitioners : Shri Gawali Amol K.
Advocate for Respondent 1 : Shri Tope Sambhaji S.
Advocate for Respondents 2 & 3 : Shri Barde Parag Vijay

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CORAM : RAVINDRA V. GHUGE, J.
Dated: August 31, 2017

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PER COURT :-

1. These identical petitions involving identical causes of action were heard extensively on 24.8.2017, 29.8.2017 and today. Issue is as regards, whether the District Court can condone the delay in filing applications under Section 34, beyond three months and thirty days provided thereunder.

2. In all these petitions, the petitioners who are respondents in the applications under Section 34 are aggrieved by the identical order dated 2.6.2016 delivered by the learned District Judge, Jalna in Civil Misc. Arbitration Applications Nos.98 to 108

and 116 to 148 of 2013, by which, the delay caused by the ZP in preferring the applications has been condoned.

3. Learned counsel for the respondent / Zilla Parishad (ZP) relies upon the judgment of this Court (Coram : R.D.Dhanuka, J.), dated 2.1.2013 in the matter of E-square Leisure Private Limited Vs. K.K. Dani Consultants and Engineers Pvt. Ltd. [2013 (3) Mh.L.J. 24], especially, paragraph Nos. 13, 14 and 18 and submits on instructions that as the respondent / ZP has still not received the signed copy of the arbitration award at issue, the ZP would be withdrawing all 44 applications filed under Section 34 of the Arbitration and Conciliation Act, 1976 within one week from today.

4. Considering the statement made on instructions by the learned counsel for ZP that all the applications under Section 34 would be withdrawn within one week, the impugned order would not survive and stand extinguished with the disposal of all applications post withdrawal.

5. At this juncture, learned counsel for the ZP, on instructions from Shri Damodhar Pandurang Ghorpade, Sectional Engineer, RWS Sub-Division, Zilla Parishad, Jalgaon, submits

that this Court may direct the learned Principal District Judge, Jalna to dispose of all the said applications as having been withdrawn. The said statement is accepted.

6. Learned counsel for the ZP submits that the ZP intends to prefer a Civil Suit before the competent Civil Court. In the event such a suit is filed, the same may be directed to be decided within one year.

7. Learned counsel for the petitioners submits that since all the applications under Section 34 are being disposed off as withdrawn and as the impugned order would therefore, not survive, all these petitions be disposed off as being infructuous.

8. Considering the above, while disposing of these petitions as infructuous, statements of the learned Advocates are recorded as follows:-

(A) The ZP desires to withdraw all the Arbitration Applications (in all 44).

(B) All the said Arbitration Applications filed by the ZP, pending before the learned Principal District Judge, Jalna stand disposed off as withdrawn by the ZP and consequentially, the impugned orders dated

2.6.2016 in Arbitration Applications Nos.98 to 108 and 116 to 148 of 2016, do not survive.

(C) The ZP desires to prefer Civil Suits. In the event, they do so, within a period of four weeks from today, the protection granted by this Court in Writ Petition No.9015 of 2012 by order dated 24.7.2013, shall continue for a period of six weeks from today.

9. It be noted that this Court has not expressed any opinion about the Civil Suits being filed by the ZP and in the event they are so filed, the competent Court shall consider the said suits on their own merits, including any issue of limitation. The ZP would be at liberty to pray for the expeditious disposal of the said suits before the said Court having jurisdiction.

10. These petitions are therefore, disposed off as being infructuous.

(RAVINDRA V. GHUGE, J.)

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