

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

**APPEAL FROM ORDER (ST) NO.9894 OF 2017
WITH
CIVIL APPLICATION (ST) NO.9895 OF 2017
IN
APPEAL FROM ORDER (ST) NO.9894 OF 2017**

Rajesh Electrofabricators & Suppliers
A Partnership Firm ..Appellant/Applicant
V/s.
IDBI Bank Limited & Anr. ..Respondents

Mr.Avinash Joshi for the Appellant/Applicant.

Mr.Ashish Singh i/by DSK Legal for Respondent No.2.

CORAM : M. S. SONAK, J.

DATE : 06 APRIL 2017

P.C.

1. Upon production, taken on board.

2. The challenge in this appeal is to the order dated 06 April 2017 by which the learned Trial Judge, has declined issue of ad-interim injunction to restraint the encashment of a bank guarantee.

3. I heard the learned counsel for the appellant for quite some time. However, he has not been able to point out that the exceptions to the general rule in the matter of encashment of bank guarantee, arise in the present matter. He relies upon the communication from the

Bureau of Energy Efficiency dated 14 September 2011 and on that basis he submits that the appellant was disabled from supplying the transformers, which the appellant, was required to supply under the terms of the tender. This according to him constitutes a fraud or in any case, a sufficient reason for restraining the encashment of bank guarantee. He submits that the bank guarantee are in respect of some other contract and therefore, the encashment should be restrained.

4. Upon due consideration of these submissions, it is quite clear that the appellant, is not in position to bring its case within the exceptions prescribed in the matters of grant of restraint orders in the matter for encashment of bank guarantee.

5. The appeal, accordingly dismissed.

6. Observations are only *prime-facie* and need not influence the learned Trial Judge at the stage of deciding Notice of Motion or the suit itself.

(M. S. SONAK, J.)