

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

**APPEAL (L) NO. 413 OF 2016
IN
NOTICE OF MOTION No. 1882 OF 2016
IN
ARBITRATION PETITION NO. 387 OF 2016
WITH
NOTICE OF MOTION (L) No. 3224 of 2016
IN
APPEAL (L.) NO. 413 OF 2016**

M/s. Fairyland Co-operative Housing ... Appellant/
Society Ltd., Applicant/Org.Petitioner.

V/s.

M/s. Admirecon Infrastructure Pvt. Ltd., ... Respondent.
(Org.Respondent)

Mr. Chirag Mody i/by Divya Shah & Associates for the
Appellant.

Ms. Priyanka Pawar, Advocate for the Respondent.

**CORAM : ANOOP V. MOHTA AND
P. R. BORA, JJ.**

DATE : 23rd JANUARY, 2017

ORAL ORDER :

1 Heard finally.

2 This Appeal under section 37 of the Arbitration
and Conciliation Act, 1996 (the Arbitration Act), is filed by the
Appellant/original Petitioner against order dated 19th August,
2016, whereby the learned Judge, considering the facts and

circumstances of the case, by way of only conditional stay of the impugned award, directed the Appellant/org. Petitioner to deposit a sum of Rs.22 lakhs in the court within a period of eight weeks from the date of order dated 19th August, 2016 passed in Notice of Motion No. 1882 of 2016 in arbitration petition no.387 of 2016. Said deposit of the amount was stated to be the foundation for stay of the impugned Award, pending the petition.

3 The Division Bench of this court headed by the Chief Justice passed order dated 21st December, 2016 in this Appeal preferred by the Appellant/Org. Petitioner, which reads thus :

“P.C.

1] The appellant's counsel submits that out of the alleged principal amount of Rs. 15 lakhs, Rs. 5 lakhs is already deposited with the Prothonotary and Senior Master and for balance of Rs.10 lakhs, the society is ready to offer fixed deposit as a security. Accordingly, we direct the appellant to file an affidavit to the said effect alongwith the deposit receipts to be lodged with the Prothonotary and Senior Master by the next date of hearing.

2] We direct the Prothonotary and Senior Master not to pay the amount of deposit to any of the parties

till the Court approves. Meanwhile, Rs. 5 lakhs already deposited shall be kept in an interest earning deposit.

3] List is on 11th January, 2017.

(M.S.SONAK,J.)

(CHIEF JUSTICE)”

4 The Appellant has complied with the said order. Therefore, taking over all view of the matter, and even considering the scheme and object of section 36 of the Arbitration and Conciliation Act, 1996, in the present case, we are inclined to dispose of the present appeal as there is compliance of order dated 21st December, 2016 which is sufficient to secure the basic amount, as per the Award which will be subject to the final disposal of the appeal. This, in our view, is sufficient to stay the impugned award, as granted by the learned single Judge and to continue the stay till disposal of the application under section 34 of the Arbitration Act.

5 Liberty is granted to the Respondents, as the main matter is pending with the learned single Judge, to press for appropriate orders, and after considering the rival contentions of both the parties on a motion if taken out by the respondents for withdrawal of the amount, the same be decided in accordance with the law and on its own merits.

6 It is made clear that the order so passed by the Division Bench will be subject to the final order passed by the learned single Judge, while deciding section 34 application finally.

7 The Appeal and the Motions are disposed of accordingly, with above stated liberty.

(P. R. BORA,J.)

(ANOOP V. MOHTA J.)

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