

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CIVIL APPLICATION NO. 997 OF 2018
IN ARBA/2/2017

VITTHAL SAHAKARI SAKHAR KARKHANA LTD. THROUGH ITS
MANAGING DIRECTOR
VERSUS

RAJLAXMI PETROCHEM PVT. LTD. THROUGH ITS DIRECTOR,
DINESHKUMAR MURLIDHAR INNANI

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Advocate for Applicant : Mr. Khandare N.B.

Advocate for Respondents : Mr. S.S. Rathi

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CORAM : V. K. JADHAV, J.

DATED : 7th FEBRUARY, 2018

PER COURT:-

1. Heard learned counsel for both the parties at length.
2. By way of this civil application, the original appellant is seeking direction to the Collector, State Excise, Solapur and the Superintendent of State Excise, Solapur to grant permission and to allow the applicant to use molasses and sale the final product i.e. SDS, ENA and/or other products manufactured by the applicant and for that purpose issue necessary orders.
3. It appears that the learned Principal District Judge, Latur by order dated 13.01.2017 below Exh.15 allowed the application in terms that pending, hearing and final disposal of the application

(Exh.6) the respondent (i.e. applicant herein) is restrained from sale, creating third party interest, transfer, alienating molasses, SDS, ENA in any manner whatsoever. Aggrieved by the said order, the applicant has approached this Court by filing Arbitration Appeal No. 2 of 2017 with civil application No. 3452 of 2017 and this Court by order dated 20.4.2017 modified the order passed by the Principal District Judge, Latur and permitted the present applicant to sell the molasses as per law and further directed that the amount of sale is to be deposited immediately with record of sale in the District Court. This Court has also directed that if there is any breach of order, action will be taken against the appellant (applicant herein) and such undertaking also to be given in the District Court before proceeding with the same.

4. It is a part of record that though this Court has modified the impugned order passed by the learned Principal District Judge, Latur, as aforesaid, by order dated 20.4.2017, the applicant herein neither sold the molasses though permitted nor deposited the amount before the District Court. The applicant may have some excuses for that, however, on the basis of application submitted by the respondent company, the Collector, State Excise by order dated 19.1.2018 refused permission to the applicant herein on the ground that this Court has not granted any stay to the order passed by the learned

Principal District Judge, Latur and as such, the order passed by the learned Principal District Judge, Latur is still in force. There is no need to observe here that the said order passed by the Collector, State Excise is apparently incorrect on the face of record. This Court has modified the order passed by the learned Principal District Judge, Latur and further permitted the present applicant to sale the molasses with direction to deposit the sale amount in the District Court. This Court has accordingly disposed of the Arbitration appeal and consequently, civil application seeking stay also disposed of as does not survive.

5. By way of this civil application, the applicant sugar factory is seeking direction to the Collector, State Excise, Solapur and Superintendent of State Excise, Solapur to grant permission to allow the applicant sugar factory to use molasses and sale the final product i.e. SDS, ENA and or other products manufactured by the applicant. However, this Court has passed order in Arbitration Appeal No. 2 of 2017 on 20.4.2017 and for considerable period, the applicant sugar factory has not attempted to sale the molasses and to further comply with the order passed by this Court in Arbitration appeal, as aforesaid. Learned counsel for the applicant has submitted that the crushing season for the year 2017-18 commenced on 01.11.2017 and as such, the applicant sugar factory has filed an

application before the Collector, State Excise on 11.01.2018 for grant of permission, as aforesaid. It further appears from the submissions of the counsel for the parties, that the application Exh.6 is still pending before the learned Principal District Judge, Latur. In view of the same, the parties may approach the learned Principal District Judge, Latur to resolve their dispute in the pending application Exh.6. However, in any case, the order passed by the Collector, State Excise, is incorrect, illegal and improper and the same is thus quashed and set aside.

6. The civil application is accordingly disposed of.

(V. K. JADHAV, J.)

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