

Shailaja

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE SIDE JURISDICTION

WRIT PETITION NO.9695 OF 2016

BVG India Ltd. | Petitioner

Vs.

The Commissioner, Solapur Municipal Corporation, Solapur and others. | Respondents

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Mr. Ashutosh M. Kulkarni, for Petitioner.

Mr. M.P. Rao, Sr. Advocate i/b Mr. D.G. Dhanure, for Respondent Nos. 1 to 3.

Mr. Mayur Khandeparkar a/w Mr. Vishal Mehta & Vidhi Patel by M/s. MV Law Partners, for Respondent No.5.

Mr. Manish M. Pabale, A.G.P for Respondent No.7.

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**CORAM : A.S. OKA AND
P.N. DESHMUKH, JJ.**

DATE : 14TH FEBRUARY, 2018.

P.C.

After having heard learned Counsel appearing for the parties, we find that for deciding this Petition, we will have to adjudicate on the factual question whether the petitioners made material mis-representation of the facts. For deciding the said issue, the parties may have to adduce evidence. Therefore, the remedy of filing of the suit before the Civil Court will be appropriate remedy. Only on this ground, we dispose of the Petition by granting liberty to the petitioner to adopt remedy of filing a suit before the Civil Court.

2. The concerned Civil Court is bound to note that this Petition was filed on 1st August, 2015 which was entertained by this Court and same remained pending till today. All contentions of the parties on merit are expressly kept open. At this stage, it is pointed out that there is an arbitration clause. If there is an arbitration clause, it is always open for the parties to take recourse to the arbitration.

[P.N. DESHMUKH, J.]

[A. S. OKA, J.]