

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
NOTICE OF MOTION NO. 777 OF 2016
IN
ARBITRATION PETITION NO. 390 OF 2016

Sequent Scientifics Ltd. Applicant/Petitioner

IN THE MATTER BETWEEN

Sequent Scientifics Ltd. Petitioner

VERSUS

DFC Engineers Pvt. Ltd. Respondent

Mr.Dharam Jumani, a/w. Mr.Nirav Shah, Mr.Nausher Kohli, i/b. DSK Legal for the Applicant.

Mr.Zen Mukhi, a/w. Mr.Jay Vakil, i/b. Pratyay Legal for the Respondent.

CORAM : R.D. DHANUKA, J.

DATE : 11th JANUARY, 2018

P.C.

By this notice of motion, the applicant seeks stay of the impugned award rendered by the learned arbitrator. By a separate order passed by this court, the arbitration petition filed under section 34 of the Arbitration and Conciliation Act, 1996 impugning the arbitral award is already admitted.

2. Learned counsel appearing for the applicant invited my attention to certain findings rendered by the learned arbitrator on the issue of execution of the alleged contract between the petitioner and the respondent and would submit that there was no contract between the parties.

3. Learned counsel appearing for the respondent on the other invited my attention to the findings rendered by this Court in order dated 5th March,2014 in Arbitration Petition No.35 of 2013 and in particular paragraphs 4 and 5 on the limited issues raised by the petitioner in the said application filed under section 11 of the Arbitration and Conciliation, 1996 including on the finding that the terms of the contract referred to as well as the course of conduct between the parties as reflected in the documents on record that the architectural services were required to be rendered by the petitioner.

4. Learned counsel for the petitioner on instruction states that his client would deposit the entire awarded sum with interest in this court within three weeks from today without fail. The impugned award is stayed on the condition that the applicant deposits the entire awarded sum with interest upto the date of deposit within three weeks from today without fail. Upon such deposit if made by the applicant, the respondent would be at liberty to withdraw the said amount upon furnishing a bank guarantee of the nationalized bank in favour of the Prothonotary and Senior Master initially for a period of two years and thereafter for like period after obtaining further orders from this Court.

5. If the amount is not deposited within the time prescribed, the interim stay to stand vacated without further reference to court. If the amount is deposited and the respondent does not furnish the bank guarantee within the time prescribed, the amount shall be invested by the learned Prothonotary and Senior Master in the fixed deposit of a nationalized bank initially for a period of two years and thereafter like

period after obtaining further orders from the court.

6. In view of the statement made by the learned counsel for the petitioner to deposit the amount without rights and contentions of the petitioner, learned counsel for the respondent states that he will apply for appropriate adjournment of the execution application filed before the executing court for the impugned award which is subject matter of this arbitration petition. Statement is accepted.

7. Notice of motion is disposed of in the aforesaid terms. No order as to costs.

[R.D. DHANUKA, J.]