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

NOTICE OF MOTION NO.153 OF 2017  
IN  
COMMERCIAL ARBITRATION PETITION NO.218 OF 2017

Sunil P. Sonawane,  
The Executive Engineer, Bhatsa Dam  
Management Division,  
Bhatsa Nagar, Shahpur – Thane

...Applicant

**IN THE MATTER BETWEEN :**

State of Maharashtra & Ors.

...Petitioners

V/s.

R.J. Shah & Co. Ltd.

...Respondent

Mr.N.V. Walavalkar, Senior Counsel with Mr.D.B. Khaire and  
Smt.Uma Palsuledesai, A.G.P. for the Applicant / Petitioner.

Mr.Nitin Thakkar, Senior Counsel with Mr.G.C. Mohanty and  
Ms.Shruti Trivedi i/b Damania & Co. for the Respondent.

**CORAM : R.D. DHANUKA, J.**  
**DATE : 12TH APRIL, 2018.**

**P.C. :-**

1. By this notice of motion, the applicant seeks stay of execution, operation and implementation of the award dated 31<sup>st</sup> January, 2016 read with additional award dated 18<sup>th</sup> March, 2016. By the impugned award, the learned arbitrator has directed the applicant to pay various amounts i.e. Rs.7,92,57,185.87 plus Rs.76,69,759/-

towards escalation with interest at the rate of 12% p.a. from 31<sup>st</sup> March, 2008. The parties have worked out the amount payable in terms of the award as on 31<sup>st</sup> January, 2016 at Rs.16,87,38,675/-. As on today as per the said award, the amount payable is more than Rs.20.00 crores.

2. It is not in dispute that some of the claims awarded by the learned arbitrator are based on an admissions of the applicant before the learned arbitrator and those claims not having been opposed by the applicant, the same are allowed which are forming part of the impugned award.

3. Learned arbitrator has awarded interest at the rate of 12% p.a. upto the date of award. The learned arbitrator has awarded interest at the rate of 9% p.a. after expiry of three months from the date of the award.

4. I have perused the impugned award. I am of the *prima-facie* view that the learned arbitrator has rendered various *prima-facie* findings which are required to be gone into at the stage of final hearing of this arbitration petition whether the same are perverse or not. Considering the amount awarded by the learned arbitrator and considering *prima-facie* view taken by this Court, in my view interest of justice would be met with if the applicant is directed to deposit Rs.12,00,00,000/- (Rupees Twelve Crores only) in this Court within

eight week from today. It is made clear that if the amount is not deposited within eight weeks from today, the interim stay granted by this Court to stand vacated without further reference to Court. It is made clear that no further extension would be granted.

5. The respondent is permitted to withdraw Rs.11,75,00,000/- upon furnishing a bank guarantee of a nationalized bank in favour of learned Prothonotary & Senior Master. The said bank guarantee shall be kept alive for a period of two years and for like period after obtaining further orders from this Court. The respondent is permitted to withdraw Rs.25,00,000/- without any security in view of the fact that certain claims are allowed by the learned arbitrator in view of the respondent not having pressed those claims. It is further made clear that if the applicant succeeds in these proceedings in toto, the respondent shall return the amount of Rs.25,00,000/- which is allowed to be withdrawn without any security with such rate of interest as this Court may direct.

6. It is made clear that if the bank guarantee is not furnished within eight weeks from the date of deposit to the satisfaction of the Prothonotary & Senior Master of this Court, the amount that may be deposited by the applicant shall be invested in the fixed deposit of a nationalized bank initially for a period of two years and thereafter for like period after obtaining order from this Court.

7. The impugned award is stayed on the aforesaid condition. The notice of motion is disposed of in aforesaid terms. No order as to costs.
8. Place the arbitration petition on board for directions on 15<sup>th</sup> June, 2018 for fixing the date of hearing of the arbitration petition.

***(R.D. DHANUKA, J.)***