

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

ARBITRATION APPLICATION NO.6 OF 2017
WITH
ARBITRATION APPLICATION NO.7 OF 2017

TEJAS CONSTRUCTION AND INFRASTRUCTURE PVT. LTD. THROUGH
IT S DIRECTOR, JALGAON
VERSUS
JAI SHIVSHANKAR SAHAKARI SAKHAR KARKHANA LTD. THROUGH IT S
SECRETARY, NANDED

...

Advocate for the Applicants : Shri Kulkarni Sanket S.
Advocate for Respondent 1 : Shri Abhijit Chaudhari h/f Shri
D.J.Chaudhari

...

CORAM: RAVINDRA V. GHUGE, J.

DATE :- 27th September, 2019

Per Court:

1 Shri Chaudhari, learned advocate, who has appeared on behalf of respondent no.1 sugar factory, submits that he has already stated on 05.09.2018 that the sugar factory went into liquidation and the Maharashtra State Cooperative Bank Limited has, thereafter, sold the sugar factory in auction sale proceedings to M/s Shivaji Service Station at the end of the financial year 2013-2014. He further submits that his client is now not passing on any instructions to him and he, therefore, cannot make any statement in view of the observations of this court recorded in paragraph 2 of the order dated 05.09.2018.

2 The order dated 05.09.2018 passed by this court reads as under :-

- "1. The learned Advocate for the respondent-Sugar Factory submits that the respondent- Sugar Factory was sold after the end of the financial year 2013-14, to M/s. Shivaji Service Station.
2. The learned Advocate for the applicant submits that the respondent needs to make a statement as to whether, the respondent is conducting the Factory through M/s. Shivaji Service Station and whether the latter has purchased the factory on "as is, where is" basis alongwith all liabilities/encumbrances.
3. The learned Advocate for the respondent seeks time to collect instructions so as to make a statement.
4. Stand over to 05/10/2018.
5. Notwithstanding the above, the applicant shall remove all office objections in both these applications on or before 27/09/2018, failing which, both the applications stand rejected on 28/09/2018.
6. At this juncture, the learned Advocate for the applicant submits that the office objection may be dispensed with as the applicant does not desire to place a copy of the memo of the Arbitration No.7/2017 before this Court."

3 The learned advocate for the applicants submits that the only issue is that the earlier Arbitrator has shown his reluctance to proceed with the arbitration and has withdrawn himself. He suggests the name of Shri Shankar G. Shete, retired District and Sessions Judge, to be appointed as an Arbitrator.

4 The learned advocate for the respondent submits that he has nothing to say since the sugar factory is already sold in 2013-2014 and has no reason to appear before the Arbitrator.

5 The learned advocate for the applicants submits that his client would deal with such situation before the learned Arbitrator.

6 In view of the above, these two Arbitration Applications are allowed. Shri Shankar G. Shete, retired District and Sessions Judge, is appointed as an Arbitrator in both matters. The applicants shall deposit a total amount of Rs.10,000/- (Rupees Ten Thousand) with the registry as processing fees for processing the papers in these two cases.

kps

(RAVINDRA V. GHUGE, J.)