

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.7324 OF 2019

AURANGABAD FOUNDRIES PVT. LTD. THROUGH MANAGING
DIRECTOR MAHESH GOVINDRAO NARKHAN
VERSUS
M/S JAIN IRRIGATION SYSTEM LTD. AND ANOTHER

Mr.P.F.Patni, Advocate for the petitioner.
Mr.A.A.Yadkikar, Advocate for the respondents.

(CORAM : Ravindra V.Ghuge, J.)

DATE : 30/08/2019

PER COURT :

1. This matter was heard extensively on 27/08/2019 and today as well. Considering the submissions made by the parties and the consensus arrived at, the following facts need to be taken into account :-

[a] The principal amount at issue is Rs.11,50,781/-.

[b] Section 16 of the Micro, Small and Medium Enterprises Development Act, 2006 mandates that three times of the entire amount, with the compound rate of interest at monthly rests @ 6%, is to be calculated and 75% of the amount is to be deposited.

[c] As on 21/12/2018, when the respondents lodged the present proceedings u/s 34 of the Arbitration and Conciliation Act r/w Section 19 of the 2005 Act, the total amount would be

Rs.32,01,072/-.

[d] 75% of the said amount would be Rs.24,00,804/-.
Respondent No.1 has already deposited Rs.8,63,086/-.

[e] Respondent No.1 is willing to deposit the residual amount of Rs.15,37,718/- before the concerned Court.

2. The learned Advocate for the petitioner submits that the said amount be deposited and the issue whether the calculations are correctly made, can be left open for the concerned Court to decide while deciding the proceeding.

3. The learned Counsel for the petitioner submits on instructions that the petitioner desires to withdraw Rs.11,50,781/-, which is the principal amount.

4. The learned Advocate for respondent No.1. is agreeable on instructions, subject to the final result in the proceedings.

5. In view of the above, this petition is allowed. The impugned order dated 03/04/2019 is quashed and set aside and Exh.15 in Civil M.A.No.24/2019 is allowed with the following directions :-

[a] Respondent No.1/Establishment shall deposit an amount of Rs.15,37,718/- before the District Court,

Aurangabad in CMA No.24/2019, on or before 30/09/2019.

[b] The petitioner would be at liberty to withdraw an amount of Rs.11,50,781/- with an affidavit/undertaking declaring that if the verdict in the said proceedings is adverse to the petitioner and he is held ineligible to receive the said amount, he shall re-deposit the said amount in the Court within 6 (six) weeks from the date of such verdict, failing which, the said amount would attract the same interest and the terms as are made applicable u/s 16, until the amount is deposited.

[c] The learned District Judge shall invest the remaining amount in fixed deposit receipt with a Nationalized Bank at Aurangabad for a period upto 29/02/2020.

[d] Civil M.A.No.24/2019 shall be decided on or before 31/12/2019.

(Ravindra V.Ghuge, J.)