

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION
IN ITS COMMERCIAL DIVISIONNOTICE OF MOTION (LODG) NO.46 OF 2019
IN
COMMERCIAL ARBITRATION PETITION (L) NO.1435 OF 2018

Ancile Investment Co.Ltd. ...Applicant
In the matter between
Ancile Investment Co.Ltd. ...Petitioner.
Vs.
Dr.Amin Controllers Pvt.Ltd. & Ors. ...Respondents.

Mr.Pradeep Sancheti, Senior Advocate with Ankur Khandelwal, Sidhant Kaushik I/b. Kochhar & Co., for the Applicant/Petitioner.

Mrs.Neeta Jain I/b. Praful D.Gandhi, for Respondent No.1.

Mr.Mustafa Doctor, Senior Advocate with Jehangir Jeejeebhoy, Pranay Mangharam, Ms.Ekta Jhaveri, Ms.Aayushi Jain I/b. MZD Legal Consultancy, for Respondent No.2.

CORAM : G.S. KULKARNI, J.

DATE : 9th January, 2019

PC:

Heard the learned counsel for the parties. I have also perused the order dated 21 December 2018 passed by this Court whereby the court had permitted opening of the warehouse and permitted inspection of the stock of rice and also if necessary permitted the petitioner to undertake fumigation exercise. An officer of the Court was appointed to supervise and to act as directed in the order. It is informed that the exercise was

undertaken as directed in the said order and a report of the Court Receiver to that effect dated 26 December 2018, is placed on record.

2. On the background what had transpired in the inspection of the stock of rice, this notice of motion has been moved on behalf of the petitioner *interalia* seeking reliefs that the petitioner be permitted further fumigation to be undertaken on the stock of rice lying in the said warehouse.

3. Mr.Doctor, learned Counsel for respondent no.2 fairly submits that in regard to the limited reliefs in regard to fumigation, his client would not have any objection and that fumigation exercise be permitted as prayed in prayer clauses (a) and (c) of the notice of motion.

4. Mr.Doctor however has serious objection to the continuation of the status quo as granted by the Court and as observed in paragraph (2) of the order dated 21 December 2018 in regard to the stock of rice. Mr.Sancheti, learned Counsel for the petitioner however disputes the submissions of Mr.Doctor.

5. Be that as it may from a reading of the order dated 21 December 2018 it is clear that it was passed in the peculiar circumstances and only to enable the petitioner to undertake fumigation. As observed in paragraph (8) of the order, all those measures were strictly without

prejudice to the rights and contentions of the parties and whatever was directed in the said order was not a reflection of any opinion on the merits of the rival contentions.

6. Considering the above backdrop, in my opinion, at this stage of the proceedings it would be appropriate that prayers (a) and (c) as made in the notice of motion are allowed. They are accordingly allowed.

7. Needless to observe that granting of above prayers is strictly without prejudice to the rights and contentions of the parties. As also for a further limited period till the petition is taken up for hearing on the adjourned date, the status quo as granted by the order dated 21 December 2018, shall continue to operate without prejudice to the rights and contentions of the parties.

8. The representatives of of respondent no.1 shall extend appropriate co-operation in opening the seal to enable the petitioner to undertake fumigation and thereafter re-seal the premises. As also the representatives of respondent no.2 shall remain present when such exercise is undertaken by the petitioner.

9. Notice of motion is accordingly disposed of in the above terms. No costs.

[G.S. KULKARNI, J.]