

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

ARBITRATION PETITION NO.810 OF 2016
ALONG WITH
CHAMBER SUMMONS NO.634 OF 2017
IN
NOTICE OF MOTION NO.1147 OF 2017
IN
ARBITRATION PETITION NO.810 OF 2016

Maharashtra State Power Generation Company Limited	...	Petitioner
Versus		
Macawber Beekay Private Limited	...	Respondent

Mr. Sanjay Jain a/w Mr. Sumeet Bansod I/b L.J. Law for the Petitioner and the Applicant in Chamber Summons No.634 of 2017.
Mr. Amit Khare a/w Mr. Kiran S. Mohite for the Respondent.

CORAM : S.C. GUPTE, J.

DATE : 30 JANUARY 2019

P. C. :

. This arbitration petition challenges an award passed by an arbitral tribunal of three arbitrators. The majority, i.e. two arbitrators, awards the Respondent's claims, whilst the minority award grants the Petitioner's counter-claims. As a condition of stay of the impugned award, the Petitioner has deposited a sum of Rs.8,39,44,177/- in this court. The Respondent has been permitted to withdraw this amount on furnishing such security as may be acceptable to the Prothonotary and Senior Master of this court. The Prothonotary has accepted the security of immovable property of the Respondent, which is at Gurgaon in National Capital

Territory (“NCT”). Chamber Summons No.634 of 2017 has been taken out by the original Petitioner to set aside that order, and instead require a bank guarantee as a security.

2 Learned Counsel for the Respondent submits he is agreeable to furnish a bank guarantee within a period of three weeks from the date of withdrawal of the sum deposited by the Petitioner. Learned Counsel submits that in the meantime, till such bank guarantee is furnished, the property offered by the Respondent towards security, namely, immovable property at Gurgaon, NCT, may be accepted as security. Learned Counsel submits that he will furnish an appropriate undertaking of his Managing Director in this behalf.

3 In the premises, the following order is passed :-

(a) The order passed by the Prothonotary and Senior Master, is varied as follows :-

(i) The Respondent is permitted to withdraw the sum of Rs.8,39,44,177/- with accrued interest, if any, against security of its property mentioned in the order of the Prothonotary and Senior Master;

(ii) This security of immovable property shall be substituted by the Respondent by furnishing a bank guarantee of a Nationalized Bank for the sum withdrawn, within a period of three weeks from the date of withdrawal of the amount;

(iii) The Respondent shall submit an appropriate undertaking, acceptable to the Prothonotary and Senior Master of this court, of its Managing Director to furnish the bank guarantee referred to above. Prothonotary shall ensure that such undertaking is furnished and a copy of the undertaking is served on the Petitioner before the amount is released unto the Respondent;

(iv) The bank guarantee shall be initially for a period of one year and renewable thereafter from time to time so as to abide by further orders that may be passed in the Arbitration Petition herein.

4 The Chamber Summons is disposed of in the above terms.

5 The Arbitration Petition to come up for hearing on 20 February 2019 at 3.00 p.m.

(S.C. GUPTE, J.)