

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

WRIT PETITION NO. 1284 OF 2021

M/s VBC Ferro Alloys Limited,
..VS..

The Assistant General manager, Bank of India, Nagpur Main Branch, and Anr.,

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Mrs. S. K. Paunikar, Advocate for petitioner.
Shri A. T. Purohit, Advocate for respondents.

CORAM : SUNIL B. SHUKRE AND
ANIL S. KILOR, JJ.

DATED : 19.07.2021

Heard Mrs. Paunikar, learned counsel for the petitioner and Mr Purohit, learned counsel for the respondents.

2. According to the learned counsel for the petitioner, the bank guarantee which was issued on behalf of the petitioner by the respondent bank to WCL expired on 27.12.2020 and till that time, no claim whatsoever under the bank guarantee was raised by the WCL and this fact is confirmed by the respondent bank. But, now it transpires from reply filed on behalf of the respondent bank that the respondent bank had received a letter from WCL on 04.09.2019 making a request for extension of the bank guarantee or payment of the amount of bank guarantee, upon failure to extend the bank guarantee. According to the respondent bank, these developments would show that this petition involves disputed

question of facts requiring a decision as to whether or not there was any invocation of the bank guarantee before the expiry of bank guarantee in question.

3. Similar contentions have been raised by Shri Shukul, who appears on behalf of the intervenor. The intervenor is WCL which has filed an application seeking intervention in the matter, it being a necessary party. However, we think that the application can be disposed of as it could be seen on the face of pleadings of the petitioner and reply of respondent bank that this case involves disputed questions of fact for which detailed evidence would be necessary and that would be possible only if the appropriate proceedings are filed before the Civil Court of law.

4. In the circumstances, the petition stands dismissed with liberty to the petitioner to file appropriate proceedings under ordinary Civil law. No costs.

CIVIL APPLICATION (CAW) NO. 538 OF 2021 AND CIVIL APPLICATION (CAW) NO.950 OF 2021.

In view of disposal of the writ petition, the applications are do not survive and are disposed of accordingly.

JUDGE

JUDGE