

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**CIVIL APPELLATE JURISDICTION****ARBITRATION APPEAL NO.10 OF 2022**

Shree Tatyasaheb Kore Warana Sahakari

Sakhar Karkhana Ltd.

..Appellant

vs.

Sudhakar Rao Naik Sahakari Sakhar

Karkhana Ltd.

..Respondent

with

INTERIM APPLICATION (ST) NO.19852 OF 2022

Mr.Nitin Gaware, for the Appellant.

Mr.Drupad Patil with Dheeraj Patil, for the Respondents.

CORAM : G.S. KULKARNI, J.

DATE : AUGUST 24, 2022.

P.C.:

1. The present proceedings are filed assailing an order dated 29 November 2021 passed by the learned District Judge-2, Kolhapur, whereby the application as filed by the appellant praying for stay of the arbitral award which is subject matter of challenge in the proceedings before the learned District Judge as filed under Section 34 of the Arbitration and Conciliation Act, 1996 (for short '**the Act**') stands rejected. The order is a discretionary order directing the appellant to deposit 50% of the award amount. The operative part of the impugned order reads thus:-

“(1) Application Exh.5 is allowed.

(2) Execution and implementation of impugned order dt. 21.12.2013 in Arbitration application is stayed till final decision of the main application, subject to condition that the applicant shall deposit 50(fifty) percent amount out of the Arbitration Award amount in this Court within period of one month. If applicant fails to deposit the amount as directed stay stands vacated automatically.”

2. Considering the provisions of Section 37 of the Act, in my opinion, such order passed on the application praying for stay of the arbitral award, is not an appealable order. The provisions of Section 37(1)(b) of the Act as being canvassed by the appellant, cannot be interpreted to mean that the said application was in the nature of the application filed under Section 9 of the Act.

3. Accordingly, the appeal under Section 37 is dismissed with liberty to the appellant to file appropriate proceedings if the appellant feels aggrieved by the impugned interim order passed on Section 34 petition. All contentions of the parties are expressly kept open.

4. The pending interim application would not survive, the same is accordingly disposed of.

[G.S. KULKARNI, J.]