

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CIVIL APPLICATION NO.1299 OF 2023
IN
ARBITRATION APPEAL NO.19 OF 2022

Sunil Venkatrao Jadhav Applicant

Versus

Vivek Shankarrao Deshpande
and others Respondent

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Mr. A.A. Nimbalkar, Advocate for the Applicant

Mr. S.V. Adwant, Advocate for Respondent Nos. 1 and 2

Mr. Rajendrraa Deshmukh, Senior Advocate a/w Mr. S.V. Deshmukh, Advocate i/b Mr. Devang R. Deshmukh, Advocate for Respondent Nos.3 to 8

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[CORAM : NITIN B. SURYAWANSHI, J.]

DATE : 17th APRIL, 2023

ORDER :

1. This application is filed by the applicant/original respondent No.1 in Arbitration Appeal for withdrawal of amount of Rs.86,70,541 deposited by the appellants/respondent Nos.1 and 2 at the time of admission of the appeal.

2. It is a matter of record that Arbitrator passed award on 11/10/2014 in favour of applicant in Arbitration Proceeding No.5 of 2008, thereby holding the applicant/respondent No.1 entitled for amount of Rs.69,81,441/- along with interest @

18% per annum from date of award till realization of amount. Civil Miscellaneous Application No.389 of 2014 filed by respondent Nos. 1 and 2/appellants under Section 34 of the Arbitration Act is rejected by the District Court. Respondent Nos.1 and 2/appellants filed the present appeal challenging the award passed by the Arbitrator, as well as the order passed by the District Court. At the time of admission of appeal, this Court granted stay to the impugned award, on the respondent depositing 50% of the award amount. Accordingly, the respondent Nos.1 and 2/appellants have deposited an amount of Rs.86,70,541/-. The applicant/original respondent No.1 seeks withdrawal of the same.

3. Learned advocate for respondent Nos. 1 and 2 /appellants strongly opposed the application by addressing on the merits of the matter. According to him, he has raised good grounds in the appeal, and the impugned award and the order of the District Court are unsustainable in law and facts of the case. He submits that the applicant/respondent No.1 was in fact paid excess amount, and he is not entitled for interest component, which is allowed by the arbitrator.

4. Taking into consideration the fact that arbitration proceeding commenced in the year 2008, award was passed in the year 2014 in favour of the applicant/respondent No.1 and the District Court has rejected the challenge raised by the respondent Nos.1 and 2/appellants in the year 2021, I am of the opinion that application deserves to be allowed for the reasons stated in the same. Hence, the following order.

ORDER

- (I) The application is allowed in terms of prayer clause 'B'.
- (II) The applicant is permitted to withdraw an amount of Rs.86,70,541/- along with accrued interest on condition to furnish continuing bank guarantee of the said amount to the satisfaction of the Registrar (Judicial).

[NITIN B. SURYAWANSHI]
JUDGE

S.P. Rane