

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
INTERIM APPLICATION NO. 2358 OF 2020
IN
COMMERCIAL ARBITRATION PETITION (LODGING) NO. 409 OF 2020**

Maharashtra State Electricity Transmission Co. Ltd. ... Applicant/Petitioner
vs.

B. G. Shirke Construction Technology Private Ltd. ... Respondent

Mr. A. Y. Sakhare, Senior Advocate, i/by. Abhijeet Joshi a/w. Ms. Varsha Sawant and Mr. Rohan Mirpury for applicant/petitioner.

Mr. Vineet Naik, Senior Advocate with Mr. Sukand Kulkarni for respondent.

**CORAM : MANISH PITALE, J
DATE : 18th APRIL, 2023**

P.C. :

. Heard learned senior counsel appearing for the rival parties. This Court is informed that although an application is filed for execution of the award, it has not been pursued. A perusal of the petition shows that the petitioner is aggrieved by original arbitral award dated 16th October, 2019 as well as a subsequent award dated 27th December, 2019, passed by the sole arbitrator, whereby the original award was modified.

2. This Court is of the opinion that if the petitioner has to enjoy further interim arrangement or stay to the impugned awards, appropriate conditions need to be imposed.

3. Although the learned senior counsel appearing for the petitioner submits that an extra-ordinary case is made out for grant of an unconditional stay, particularly by referring to the alleged errors committed by the learned arbitrator, while allowing the application under Section 33 of the Arbitration and Conciliation Act, 1996, filed by the respondent, this Court is of the

opinion that the operative portion of both the awards amount to a direction to pay monies, which, under the first proviso of Section 36(3) of the said Act, have to be treated as money decree and the relevant provisions of Code of Civil Procedure, 1908 would apply for grant of stay to such a money decree.

4. A perusal of the material on record shows that while the original award directed the petitioner to pay an amount of Rs.8,77,69,461 with interest @ 10% p.a., but on an application moved on behalf of the respondent, under Section 33 of the said Act, the learned arbitrator directed payment of a lesser amount i.e. Rs.8,58,19,225 with interest @ 10% p.a.

5. The petition can be heard for admission on a subsequent date. But, the present application for stay can be disposed of, by imposing appropriate conditions on the petitioner.

6. Accordingly, the present application is disposed of, by directing that there shall be stay to the impugned awards, subject to the petitioner depositing the amount awarded, as per the order/award dated 27th December, 2019, within six weeks from today. The Prothonotary and Senior Master of this Court shall invest the amount as per standard practice.

7. The present application for stay stands disposed of, in above terms.

8. Petition be listed for admission/hearing on 12th July, 2023.

9. The petitioner is permitted to insert page Nos.61-A and 61-B in the petition. These pages constitute part of the award and were inadvertently missing in the original petition.

10. Liberty to the respondent to move an application for withdrawal of the amount.

Priya Kambl

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(MANISH PITALE, J)