

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
INTERIM APPLICATION NO. 428 OF 2023
IN
EXECUTION APPLICATION NO. 101 OF 2020**

Rajesh Pratap Ruparel ... Applicant/Claimant
vs.
Diamart India Ltd. ... Respondent

Mr. Kunal Mehta a/w. Ms. Shreya Bhagnari, i/by. Negandhi Shah & Himayatullah for applicant/claimant.

**CORAM : MANISH PITALE, J
DATE : 20th JUNE, 2023**

P.C. :

. By this application, the applicant is seeking permission to withdraw an amount of Rs.27 lakhs deposited with the Prothonotary and Senior Master of this Court, as per the order dated 27.04.2015 passed in Company Petition No.143/2015.

2. The disputes between the parties were referred to arbitration through a sole arbitrator. By an award dated 05.01.2019, the applicant was found entitled to receive specific amounts from the respondent and in the supplemental award dated 02.05.2019, the learned arbitrator also found the applicant to be entitled to aforesaid sum of Rs.27 lakhs deposited with the Prothonotary Senior Master alongwith accrued interest, in part satisfaction of the award.

3. The applicant has annexed copies of the award and the supplemental award with the present application, in order to press relief in terms of prayer

clause (a).

4. The respondent i.e. the judgment debtor has been served and an affidavit of service dated 23.02.2023 is already filed. It shows service of notice on the respondent as far back as in February, 2023.

5. There is no appearance on behalf of the respondent.

6. This Court has heard the learned counsel for the applicant. It is specifically stated that the respondent has not challenged the award by filing petition under Section 34 of the Arbitration and Conciliation Act, 1996. In these circumstances, this Court is of the opinion that there can be no impediment in granting the present application in terms of prayer clause (a).

7. Accordingly, the application is allowed in terms of prayer clause (a). The applicant is permitted to withdraw the aforementioned amount of Rs.27 lakhs deposited with the Prothonotary and Senior Master of this Court alongwith interest towards part satisfaction of the award dated 05.01.2019 and the supplemental award dated 02.05.2019.

8. The application stands disposed of.

(MANISH PITALE, J)

Priya Kambli