

Amberkar

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 6800 OF 2022
WITH
INTERIM APPLICATION NO. 6475 OF 2024

Union of India

.. Petitioner

Versus

M/s. Duwell Agency, Pune

.. Respondent

.....

- Mr. Niranjan Prabhakar Shimpi for Petitioner
- Mr. Rishabh H. Vakharia for Respondent

.....

CORAM : MILIND N. JADHAV, J.

DATE : MARCH 8, 2024

P. C.:

1. Heard Mr. Shimpi, learned Advocate for Petitioner and Mr. Vakharia, learned Advocate for Respondent.

2. Union of India is the Writ Petitioner. It has challenged the order dated 19.03.2021 wherein the Joint Civil Judge Senior Division, Pune has concluded that proceedings filed in respect of SCS NO. 1038/1996 have to be registered as Execution Proceedings and further consequential steps to be taken have been directed in the order.

3. Mr. Shimpi would at the outset submit that pursuant to the passing of the draft award by the statutory Arbitral Tribunal, such draft Award was required to be confirmed under the provisions of Section 14(2) of the Arbitration & Conciliation Act, 1996 and at that

stage, Petitioner made two unsuccessful attempts to challenge the said Award. From the pleadings which are in fact placed on record by the Respondent in its affidavit-in-reply dated 04.12.2022, it is seen that an Application was filed on 15.07.1996 for condonation of delay of 130 days caused in filing the draft Award before the Civil Court. Incidentally the delay was not condoned and the Application was dismissed resultantly leading to the said Award having remained as a draft Award. It is further seen that further attempt was made one year thereafter by filing Misc. Application No. 195/1997 to challenge the Award this time. It is seen that this challenge to the Award was filed before the Civil Judge Senior Division, Pune whereas the earlier Application seeking condonation of delay was filed before the Joint 4th Civil Judge Senior Division, Nasik. This Misc. Application No. 195/1997 was dismissed on 23.08.2012 for default and due to the Applicant not taking any steps. That order is at page No. 68 of the Petition.

4. Though Mr. Vakharia would fairly argue that substantial delay has occurred and both the orders dated 27.07.2000 passed by the Nasik Court and dated 23.08.2012 passed by Pune Court have not been challenged nor any further steps having been taken, the impugned order dated 19.03.2021 needs to be sustained. Though Mr. Vakharia is right on the first ground of delay and there can be no

explanation whatsoever for that, in so far as the issue of challenge to the Award is concerned, the said Misc. Application was dismissed for default which is gathered from the order dated 23.08.2012.

5. In view of the above and considering the order dated 19.03.2021 and the grounds narrated in the Writ Petition, I am inclined to pass the following order in the interest of justice:-

- (i) Special Civil Suit No. 1038/1996 is expedited and directed to be concluded within a period of eight weeks from today;
- (ii) Order dated 19.03.2021 stands quashed and set aside;
- (iii) No further fresh Application or proceedings shall be permitted to be filed by any party and it shall be at the discretion of the Court.

6. Writ Petition is disposed of in the above terms. Interim Application is also disposed.

Amberkar

[MILIND N. JADHAV, J.]

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