

Vina Khapde
(P.S.)

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

INTERIM APPLICATION NO.13865 OF 2024

IN

ARBITRATION APPEAL NO.89 OF 2024

M/s. Simple Engineering Solutions .. Applicant

In the matter between

M/s. Accurate Facilities India .. Appellant

Versus

M/s. Simple Engineering Solutions .. Respondent

WITH

ARBITRATION APPEAL NO.89 OF 2024

M/s. Accurate Facilities India .. Appellant

Versus

M/s. Simple Engineering Solutions .. Respondent

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- Mr. Ranjit A. Thorat, Senior Advocate a/w Ms. Pratibha Shellake for the Applicant.
- Mr. Shamamah Kazi h/f. Mr. Sagar Pujari for the Respondent.

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CORAM : R. I. CHAGLA J.

DATE : OCTOBER 15, 2024

P.C.:

1. By this Interim Application which has been taken out by the Applicant / Original Respondent, a direction is sought against the Appellant to deposit a sum of Rs.42,10,187.50 which is stated to be 75% of the Awarded amount along with interest as per Section 16A of the Micro, Small and Medium Enterprises Development Act, 2006 (for short, 'MSMED Act') and for mandatory compliance of Section 19 of the MSMED Act.

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2. By order dated 27 January 2020 passed by the Principal District Judge / Sessions Judge, Thane, in an identical Application filed by the Applicant for depositing 75% of the principal amount of the Award before that Court and which Application was opposed by the Respondent therein stating that the amount is to be deposited along with interest @29.5%, the learned Judge had considered the Application along with opposition by the Respondents. The learned Judge held that the controversy between the parties with regard to interest can be decided at the time of final hearing of the main Application under Section 34 of the Arbitration and Conciliation Act, 1996 (for short, 'Arbitration Act'). The learned Judge held that provisions of Section 19 of the MSMED Act intends to secure money not fully but to a large extent. Accordingly, the learned Judge considered that the said purpose would be served if the Applicant is directed to deposit a sum of Rs.11 Lakhs in the Court.

3. The Applicant has complied with the said order. Thereafter, the Application under Section 34 of the Arbitration Act has been heard and disposed of by that Court and which is under challenge in the present Arbitration Appeal filed under Section 37 of the Arbitration Act.

4. Thus, the present Application is not maintainable and if at all the Applicant / original Respondent was aggrieved by the order dated 27 January 2020 passed by the Principal District / Sessions Judge, Thane, the appropriate remedy would have been for the Applicant to challenge the said order. Not having challenged the said order, this Court is not inclined to depart from the view that had taken by the Principal District / Sessions Judge, Thane vide order dated 27 January 2020.

5. Accordingly, Interim Application No.13865 of 2024 is rejected. There shall be order as to costs.

6. Arbitration Appeal which has been placed under the caption for 'dismissal' is removed from that caption and shall be placed for hearing on 18 November 2024.

7. Considering that the present Arbitration Appeal is being heard by this Court, the lower Court is requested to stay hands in the execution Application.

[R. I. CHAGLA J.]