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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
INTERIM APPLICATION NO. 9787 OF 2024
WITH
INTERIM APPLICATION NO. 8155 OF 2025
IN
WRIT PETITION NO. 9159 OF 2022

Yadav Consultancy Services Pvt Ltd ... Applicant/Petitioner
through Managing Director

vs.

The Managing Director, Bank of India and ... Respondents
Ors

Mr. Prakash Yadav, Petitioner in person.

Mr. Ananat B. Shinde, for Respondent No.1.

Mrs. Shehnaz V. Bharucha i/b. A.A. Ansari for Respondent No.2.

CORAM : GAURI GODSE, J.

DATED : 20th NOVEMBER 2025

ORDER:

WRIT PETITION NO. 9159 OF 2022

1. This petition is filed to challenge the order dated 26th February 2021, passed by the District Court in darkhast proceedings initiated by the petitioner. The Micro and Small Enterprises Facilitation Council, Pune, passed an award in favour of the petitioner under Section 18(3) of the Micro, Small and Medium Enterprises Development Act, 2006 ("The MSMED Act"). Pursuant

to the said award, the respondent bank was held liable to pay the amount to the petitioner. This award was challenged by the bank by filing the application under Section 34 of the Arbitration and Conciliation Act 1996 ("The Arbitration Act") before the District Court. The appeal was dismissed. Hence, the bank had filed an appeal under Section 37 of the Arbitration Act before this Court. The appeal was also dismissed, and the award was confirmed. The bank, therefore, filed an appeal before the Hon'ble Supreme Court.

2. By order dated 5th December 2017, the appeal preferred by the bank before the Hon'ble Supreme Court was allowed. The award passed by the Micro and Small Enterprises Facilitation Council, and the order passed by the High Court were set aside. The Hon'ble Apex Court held that the Micro and Small Enterprises Facilitation Council, Pune, had no jurisdiction to pass the award. The Hon'ble Apex Court held that the order passed by the Debt Recovery Tribunal on 24th July 2008, had become final and was binding upon the petitioner. The Hon'ble Apex Court, after setting aside the award and the order passed by the High Court, issued the following directions in paragraph no. 15:

"15. The impugned order is set aside and this appeal is allowed. The appellant Bank is free to recover the amount of Rs. 1,22,00,000/- withdrawn by the first respondent after

adjusting the payments due upto 24.07.2008. The bank is permitted to withdraw the amount of Rs. 93,22,590/- along with accrued interest. So far as the charges towards security services payable to the first respondent after 24.07.2008, liberty is granted to the first respondent to proceed against the auction purchasers-respondents No. 2 and 3 in accordance with law. No order as to costs.”

3. Pursuant to the order dated 19th March 2013, passed by the High Court in the writ petition, the respondent bank had deposited an amount of Rs.1,93,22,590/- in this court, and subsequently it was transferred to the District Court in the executing proceedings. Pursuant to the order dated 30th March 2016, passed by the Debt Recovery Tribunal ('DRT'), the petitioner had withdrawn the amount of Rs. 1,22,00,000/-.

4. In these circumstances, the petitioner filed an application at Exhibit 121 in Darkhast Proceeding No. 1741 of 2012 in the district court. The petitioner claimed that he is entitled to recover the amount of Rs.101,95,70,379/-. Accordingly, he submitted a calculation by relying upon the provisions of the Minimum Wages Act, 1948 and the MSMED Act. As against these submissions, the bank has raised an objection that the petitioner would not be entitled to the amount as claimed by him. In view of the order passed by the

Hon'ble Apex Court, the arbitral award in favour of the petitioner is set aside. Hence, the district court in the execution proceedings held that in view of the order passed by the Hon'ble Apex Court, the bank would be entitled to recover the amount of Rs.1,22,00,000/- and Rs. 12,45,290/-. Accordingly, the bank is held entitled to recover the excess amount of Rs. 1,09,54,710/- from the petitioner.

5. The petitioner, who appears in person, submits that he is entitled to the statutory charges under the MSMED Act and the Minimum Wages Act, 1948. He had therefore approached the Hon'ble Apex Court for clarification that he would be entitled to recover the said amount. However, the said petition before the Hon'ble Apex Court was withdrawn by the petitioner on 12th March 2018. The Hon'ble Apex Court permitted the petitioner to withdraw the petition before the Hon'ble Apex Court with leave to approach the High Court under Article 226 of the Constitution of India or seek any other appropriate remedy. The petitioner therefore contends that in view of the liberty granted by the Hon'ble Apex Court, the present petition is filed.

6. The present petition arises out of the order passed by the executing court for execution of the award, which is already set aside by the Hon'ble Apex Court. There cannot be any dispute that the petitioner would be entitled for his charges for the work done by

the petitioner as he was appointed as the Court Commissioner pursuant to the order passed by the DRT. In view of the directions issued by the Hon'ble Apex Court in paragraph no. 15 of the order dated 5th December 2017, the petitioner would be entitled to an adjustment of the payment due to him upto 24th July 2008.

7. The DRT vide order dated 24th July 2008, had directed the Recovery Officer to take steps to recover the charges of the Court Commissioner from the auction purchaser after 8th May 2007 till the date of discharge of the Court Commissioner. In view of the order passed by the Hon'ble Supreme Court, the order dated 24th July 2008, stands confirmed. Hence, the petitioner would be entitled to get the amount due to him adjudicated by the DRT. Thus, it is further clear that in view of the directions issued by the Hon'ble Apex Court, the bank would be entitled to recover the amount withdrawn by the petitioner after adjusting the payment due to the petitioner. However, none of the parties have approached the DRT for the determination of the amount due to the petitioner upto 24th July 2008, towards charges payable for him as he was appointed as the Court Commissioner in the order passed by the DRT. So far as the petitioner's claim of statutory charges or penal charges under the MSMED Act and Minimum Wages Act, 1948 is concerned, the same cannot be determined in the present petition. This petition is filed

with a prayer to set aside the order dated 26th June 2021, passed in darkhast proceedings and for further directions to the bank to make payment ascertained by the Hon'ble Apex Court in terms of the award dated 12th September 2012. The petitioner has not made any prayers in this petition pursuant to the liberty granted by the Hon'ble Apex Court for seeking any statutory dues. Hence, such prayers cannot be entertained in this petition.

8. However, the petitioner and the bank would be at liberty to approach the DRT for the determination of the amount due and payable to the petitioner in terms of the directions issued by the Hon'ble Apex Court in paragraph no. 15 of order dated 5th December 2017. So far as charges towards security services payable to the petitioner after 24th July 2008, are concerned, the Apex Court in paragraph no. 15 of the Order dated 5th December 2017 has already granted liberty to the petitioner to proceed in accordance with the law.

9. For the reasons recorded above, the directions issued in the impugned order determining the amounts due and payable are unsustainable. The petitioner was appointed as the Court Commissioner in the DRT proceedings. Hence, in execution proceedings for an award that has already been set aside, the

amount due to the petitioner towards the services offered as a court commissioner as per the order passed by DRT cannot be determined.

10. Hence, for the reasons recorded above, the petition is allowed by passing the following order:

I. The impugned order dated 26th February 2021, passed by the 5th Adhoc District Judge, Pune, in Darkhast No. 1741 of 2012, is quashed and set aside.

II. The petitioner and the respondent bank are at liberty to file an appropriate application as permissible in law before the DRT for determining the amount due and payable to the petitioner for adjusting the payments due upto 24th July 2008 as permitted by the Hon'ble Apex Court in paragraph no. 15 of order dated 5th December 2017.

III. It is clarified that this petition does not seek any relief in terms of the liberty granted by the Hon'ble Apex Court vide order dated 12th March 2018, passed in Writ Petition (Civil) No.189 of 2018. Hence, the petitioner would be entitled to file appropriate proceedings as permissible in law.

8. The Writ Petition is disposed of in the aforesaid terms.

9. In view of the disposal of the petition, the pending interim applications are disposed of as infructuous.

10. It is further clarified that this court has not examined the rival contentions of the parties on the actual amount due and payable to the petitioner. Hence, the rival contentions on the merits of the same are kept open.

(GAURI GODSE, J.)