

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 7774 OF 2025

M/s Eisha Goyal Agarwal Developers
Through Its Partner & Ors.

...Petitioners

Versus

M/s. Rachana Construction

...Respondent

- Mr. Pankaj J. Das, for Petitioners.
- Mr. Laukik Palekar i/b Lawfort Advocates, AGP for Respondent.

CORAM : MANISH PITALE, J.

DATE : 25th JUNE 2025.

P. C. :

1. Heard learned counsel for the parties.
2. By this petition, the petitioner seeks to invoke jurisdiction of this Court under Article 227 of the Constitution of India to challenge order dated 19th March 2025, passed by the District Court in an application for interim stay moved by the petitioners, while challenging an arbitral award under Section 34 of the Arbitration and Conciliation Act, 1996 (Arbitration Act).
3. The learned counsel for the petitioners submits that since the Arbitration Act does not provide for a remedy to challenge such an order, the petitioners are virtually left remediless and therefore, they are entitled to invoke the jurisdiction of this Court. It is further submitted that if the reasoning contained in the arbitral award is considered and in that light the

nature of the impugned order passed by the District Court is analyzed, it would be evident that the impugned order suffers from perversity and that instead of granting the alternative prayer made by the petitioners before the District Court, the principal prayer of unconditional stay of the arbitral award ought to have been granted.

4. On the other hand, the learned counsel appearing for the respondent relies upon judgments of the Supreme Court in the case of **Bhaven Construction Through Authorised Signatory Premjibhai K. Shah Vs. Executive Engineer Sardar Sarovar Narmada Nigam Ltd. & Anr.** (judgment and order dated 06th January 2021 passed in Civil Appeal No.14665 of 2015) and in the case of **Serosoft Solutions Pvt. Ltd. Vs. Dexter Capital Advisors Pvt. Ltd.** (judgment and order dated 03rd January 2025 passed in Civil Appeal Nos.51-52 of 2025). By relying on the said judgments, he submits that a very narrow window is open for the petitioners to convince this Court about the maintainability of the present writ petition in the facts and circumstances of the present case. It is submitted that unless the petitioners are able to demonstrate extreme perversity or bad faith on the part of the respondent, demonstrating that this is a case covered under the exceptionally rare category identified by the Supreme Court in the said judgments, the writ petition deserves to be dismissed at the threshold.

5. It is submitted that the impugned order partly allows the application for the stay moved by the petitioners themselves, granting the alternative prayer and therefore, the present petition does not deserve to be entertained.

6. In the aforementioned judgments of the Supreme Court, although it is held that the writ jurisdiction of the High Court under Article 226 of the Constitution, as also jurisdiction under Article 227 thereof, cannot be completely shut out, a very narrow scope is available to invoke such jurisdiction. The observations made in the said judgments make it amply clear that for a petitioner to successfully invoke jurisdiction of this Court in such circumstances in a petition arising out of arbitral proceedings, it will have to be demonstrated that there is complete perversity in the order under challenge and that such perversity is staring in the face, which then leads to such a case being categorized as an exceptionally rare case for the Court to exercise power.

7. Obviously the petitioners in the present case are required to satisfy an extremely high bar to convince this court about the very maintainability of the present petition.

8. In this backdrop, this Court has considered the submissions made on behalf of the petitioners. A perusal of the impugned order shows that upon considering the rival submissions, the District Court has come to a considered

conclusion that the application filed by the petitioners can be allowed only to the extent of the alternative prayer of depositing the amount awarded by the learned Arbitrator. A perusal of the said order, in no manner demonstrates perversity, much less complete perversity, for this Court to exercise jurisdiction under Articles 226 and 227 of the Constitution of India. While laying down the aforesaid position of law, the Supreme Court was mindful of Section 5 of the Arbitration Act, which starts with a *non obstante* clause and specifies that notwithstanding anything contained in any other law for the time being in force, in such matters concerning part I of the Arbitration Act, no judicial authority can intervene except as provided under the said part. Therefore, it is necessary for the petitioners to demonstrate that their case falls in the category of “exceptional rarity” for this Court to exercise power to interfere with the impugned order.

9. Having perused the material on record, this Court is not convinced that the present case falls under such category and therefore, no case is made out by the petitioners for entertaining the present petition.

10. In view of the above, the petition is dismissed.

(MANISH PITALE, J.)