

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

**ARBITRATION PETITION NO.262 OF 2024
WITH
INTERIM APPLICATION (L) NO.32187 OF 2023
IN
ARBITRATION PETITION NO.262 OF 2024
WITH
INTERIM APPLICATION (L) NO.21282 OF 2024
IN
ARBITRATION PETITION NO.262 OF 2024
AND
ARBITRATION PETITION NO.263 OF 2024
WITH
INTERIM APPLICATION (L) NO.32188 OF 2023
IN
ARBITRATION PETITION NO.263 OF 2024
WITH
INTERIM APPLICATION (L) NO.21285 OF 2024
IN
ARBITRATION PETITION NO.263 OF 2024
AND
ARBITRATION PETITION NO.264 OF 2024
WITH
INTERIM APPLICATION (L) NO.32189 OF 2023
IN
ARBITRATION PETITION NO.264 OF 2024
WITH
INTERIM APPLICATION (L) NO.21286 OF 2024
IN
ARBITRATION PETITION NO.264 OF 2024**

Public Works Department Government of
Maharashtra National Highway Division PWD ...Petitioner
Versus
Khare And Tarkunde Infrastructure ...Respondent

Mr. Yazad Wadia *a/w. Kajal Gupta & Shweta Singh i/b.M.V.
Kini & Co., Advocates for Petitioner.*

Mr. Anoop Sharma *a/w. Mrs. Ujwala Kamat & Mr. Sumit*

Khanna i/b. Ms Sarita D'lima, Advocates for Respondent.

CORAM: SOMASEKHAR SUNDARESAN, J.

DATE : FEBRUARY 6, 2025

PC :

1. By an Order dated December 10, 2024, a Learned Single Judge of this Court was pleased to stay an arbitral award dated April 14, 2023, taking on record a statement of the Learned Additional Solicitor General, on instructions, that the Applicant would deposit cash for 50% of the awarded amount, and provide a bank guarantee of a Nationalized Bank to secure the balance 50% of the awarded amount, within a period of eight weeks from the uploading of that order. This order was evidently modified by speaking to the minutes by an Order dated December 19, 2024.
2. Today, this matter has been listed upon a request for circulation by the Applicant. Learned Counsel for the Applicant submits that he has instructions by way of an e-mail from the Regional Office, Ministry of Road Transport and Highways that “there is no procedure for Government to give bank guarantees”, and instructing the advocate on record to seek alternative options.
3. There are no alternative options. It is remarkable that the Government, which deals with commercial counterparties in society, and avails of banking services, would be unable to provide a bank guarantee on the basis to secure the amount in terms of an order of the Court. The submission made is untenable.

4. Purely as an indulgence, the time for furnishing of a bank guarantee is extended to March 7, 2025. Should the Applicant not be able to furnish the bank guarantee for any reason whatsoever, it shall deposit cash instead for the corresponding amount.
5. It is made clear that the amount that shall be deposited by March 7, 2025 shall include interest computed until today i.e. February 6, 2025.
6. List on ***March 10, 2025*** to report compliance so that appropriate directions may be issued on that date, including consideration of whether the ad-hoc stay should be vacated in the event of the deposit not having been made.
7. Needless to say, a Case Management Hearing shall be conducted on that date, subject to the amount being deposited as directed above. The parties shall be expected to apprise the court about the points for determination during the hearing of the Section 34 Petition, bearing in mind the specific contours of the jurisdiction under Section 34 of the Arbitration and Conciliation Act, 1996.
8. All actions required to be taken pursuant to this order, shall be taken upon receipt of a downloaded copy as available on this Court's website.

[SOMASEKHAR SUNDARESAN, J.]