



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
NAGPUR BENCH, NAGPUR.**

ARBITRATION APPEAL NO. 78 OF 2025

APPELLANT :

(Org. Appellant)

Mr. Dayabhai Panchabhai Patel,
Aged about 62 years,
Occu - Business,
Proprietor of M/s Bhagwat Enterprises,
R/o Plot No.13, Surya Nagar, Pardi,
Nagpur – 440035.

V E R S U S

RESPONDENTS :

(Org. Respondents)

- 1] Bharat Shipping Agency,
5, Residency Road, Sadar, Nagpur,
Through its Proprietor Mr. Prakash
Khemka.
- 2] Member Secretary,
Micro & Small Enterprises Facilitation
Council & Dy. Director of Industries,
Udyog Bhawan, Civil Lines, Nagpur.

Shri Amit Khare, Advocate for appellant.

CORAM: ROHIT W. JOSHI, J.

DATED : 19/05/2025.

ORAL JUDGMENT :

1. The appellant had filed proceeding under Section 34 of the Arbitration and Conciliation Act, 1996 which came to be registered as Arbitration Case No.21/2023. In the said proceeding, respondent No.1 had filed an application at Exh.10 praying to dismiss the arbitration petition on the ground that it was barred by limitation. This application filed at Exh.10 came to be rejected by the learned District Judge-13, Nagpur vide order dated 24/06/2024. This order dated 24/06/2024 was assailed by the present respondent by filing a revision before this

Court bearing Civil Revision Application No.95/2024. Vide Judgment dated 05/05/2025, the Civil Revision Application came to be allowed. The order dated 24/06/2024 passed by learned District Judge-13, Nagpur was quashed and set aside and the application filed by the present respondent vide Exh.10 in Arbitration Case No.21/2023 came to be allowed. This Court has held that consequently, Arbitration Case No.21/2023 stood dismissed.

2. In view of the Judgment dated 05/05/2025 passed by this Court in Civil Revision Application No.95/2024, the learned District Judge-11, Nagpur has passed a separate order dated 08/05/2025, the operative portion whereof reads as under :-

“The Arbitration Petition No.21/2023 is hereby dismissed vide order of Hon’ble Bombay High Court in Civil Revision Application No.95/2024.”

3. In this backdrop, the appellant has preferred the present appeal under Section 37 of the Arbitration and Conciliation Act, 1996.

4. The appeal is preferred challenging the order dated 08/05/2025 along with award passed by the Facilitation Council under the MSMED Act, 2006 which was impugned in the Arbitration Case No.21/2023.

5. The order dated 08/05/2025 is passed by the learned District Judge-11, Nagpur in view of the Judgment passed by this Court in Civil Revision Application No.95/2024. The said order is merely a

sequel of the Judgment passed by this Court in Civil Revision Application No.95/2024. Thus, it can be said that the challenge in the present appeal is also to the Judgment dated 05/05/2025 passed by this Court in Civil Revision Application No.95/2024.

6. The submission of the learned counsel for the appellant is that after the Civil Revision Application came to be allowed, the learned District Judge, Nagpur has passed separate order dismissing the proceeding under Section 34 of the Arbitration and Conciliation Act. He, therefore, states that the only remedy available to the appellant was to challenge the said order by filing appeal under Section 37 of the Arbitration and Conciliation Act, 1996.

7. With respect, this Court is unable to agree with the contention raised by the learned counsel for the appellant. Vide Judgment dated 05/05/2025 passed in Civil Revision Application No.95/2024, Arbitration Case No.21/2023 is specifically dismissed by this Court. This Court, while entertaining the appeal under Section 37 of the Arbitration and Conciliation Act, 1996, cannot sit in appeal over the Judgment passed by this Court in Civil Revision Application No.95/2024.

8. The appeal is, therefore not maintainable and is dismissed, as such, granting liberty to the appellant to seek remedy in accordance with law.

9. The appeal is dismissed with no order as to costs.

[ROHIT W. JOSHI, J.]

Choulwar