



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH AT NAGPUR

ARBITRATION APPEAL NO. 38 OF 2023

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| <ol style="list-style-type: none"> 1 M/s. Gaidhane Builders and Developers, through its Managing Partner, Mr.Pravin s/o Anandrao Gaidhane 2 Pravin Anandrao Gaidhane, Aged about : 38 years, Occupation : Business Both R/o 203, Reshimbag Square, Nagpur | { | .. Appellants |
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Versus

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| <ol style="list-style-type: none"> 1 M/s. Bhoomi Developers, Through its Partner, Shri Prabhakar S/o Harishchandra Bagwe, 2 Prabhakar Harishchandra Bagwe, Aged about : 60 years, Occupation : Business, Both R/o 46, Old Nandanvan Layout, Nagpur | { | .. Respondents |
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Mr.A.V.Bobde, Advocate h/f Mr.R.R.Rajkarne, Ms.S.A.Jadhao for appellants.

Mr.C.S.Dhore, Mr.N.F.Gurnani and Ms.Anuradha Pankule, Advocates for respondent Nos.1 and 2.

CORAM : SIDDHESHWAR S. THOMBARE, J.

DATED : NOVEMBER 24, 2025

ORAL JUDGMENT

(1) Heard. **Rule.** Rule made returnable forthwith. Heard finally with the consent of the learned counsel appearing for the parties forthwith.

(2) The appellants have challenged the order dated 08/08/2023 passed by District Judge-1 Nagpur, whereby the application under Section 34 of the Arbitration and Conciliation Act, 1996 filed by the appellants challenging the arbitral award dated 11/06/2015 (corrected on 17/08/2015), came to be dismissed.

(3) Learned counsel for the petitioner relies upon the voucher Exh.C-3 dated 11/11/2009 and points out that payment of Rs.18,72,000/- made as per this voucher was not taken into consideration by the learned Arbitrator, and by the District Judge-1 in an application filed under Section 34 of the Arbitration and Conciliation Act, 1996. On this ground, he submits that matter needs to be remanded back to the Arbitrator to decide the same afresh.

(4) In support of his contention, he relied upon the law laid down by the Hon'ble Apex Court in ***Batliboi Environmental Engineers Ltd. vs. Hindustan Petroleum Corporation Ltd and another (2024) 2 SCC 375*** and submitted that learned Arbitrator has not considered the amount paid to the respondents herein, therefore,

the Arbitrator committed a grave error. He further submits that the documents filed on record by the appellants were not properly appreciated.

(5) Per contra, learned counsel for the respondents opposed the prayers of the appellants as regards the remanding the matter to the learned Arbitrator. He submits that as far as calculations are concerned, if the appellants were aware of incorrect calculation, they ought have filed an application for correction of award before the learned Arbitrator but the same has not been done. Even this ground was not raised before the District Judge-1 under Section 34 of the said Act.

(6) He further submits that there is a limited scope to this Court to interfere with the findings recorded by the learned Arbitrator and the District Court under Sections 34 and 37. In support of his contention, he relied upon the judgments in the case of **MMTC Ltd. vs. Vedanta Ltd. (2019) 4 SCC 163** and in **Gayatri Balasamy vs. ISG Novasoft Technologies Ltd. (2025) 7 SCC 1.**

(7) I have gone through the award passed by the learned Arbitrator as well as the order passed by the learned District Judge-1 in an application under Section 34. It is necessary to consider the grounds as referred under Section 37 of the said Act, which reads as under :-

“37. Appealable orders.— (1) *Notwithstanding anything contained in any other law for the time being in force, an appeal shall lie from the following orders and from no others to the Court authorised by law to hear appeals from original decrees of the Court passing the order, namely:—*

(a) refusing to refer the parties to arbitration under section 8;

(b) granting or refusing to grant any measure under section 9;

(c) setting aside or refusing to set aside an arbitral award under section 34.

(2) Appeal shall also lie to a court from an order of the arbitral tribunal—

(a) accepting the plea referred to in sub-section (2) or sub-section (3) of section 16; or

(b) granting or refusing to grant an interim measure under section 17.

(3) No second appeal shall lie from an order passed in appeal under this section, but nothing in this section shall affect or takeaway any right to appeal to the Supreme Court.”

(8) Having gone through the award as well as the findings recorded by the learned appellate Court under Section 34, I do not find any ground as contemplated under Section 37 to interfere with the impugned order. Hence, I proceed to pass following order :-

ORDER

1. The appeal is dismissed.

2. No order as to costs.

(SIDDHESHWAR S. THOMBRE)