



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

WRIT PETITION NO.122 OF 2026

[M/s. D.P. Jain and Co. Infrastructure Pvt. Ltd. .vs. Visweswaraiah Constructions]

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Shri C.S. Dharmadhikari, Advocate with Shri Abhilash O. Shriwas, Advocate for
the Petitioner.

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CORAM : PRAVIN S. PATIL, J.

DATED : JANUARY 07, 2026.

1. Heard the learned counsel for the petitioner.
2. By way of present petition, the challenge is to the order below Exh.6 passed by the learned District Judge-8, Nagpur in Arbitration Case No.137/2023, whereby the stay was granted to the Award passed by the Arbitrator, dated 29.1.2023 on the condition that the petitioner should deposit 75% of awarded amount within 30 days from the date of order.
3. By this petition, a limited grievance has been raised that the learned District Judge, while granting stay, should not have imposed the condition to deposit the 75% of the awarded amount by the Arbitrator, dated 29.1.2023.
4. The petitioner, in support of his submission, has pointed out the No Due Certificate dated 25.1.2013, which was duly proved before the Arbitrator. The same was issued by the respondent to the petitioner through its authorized signatory stating thereby that no amount is outstanding from the petitioner against the first twelve R.A. Bills out of the total 19 R.A. Bills pertaining to the work entrusted to the respondent.

So also, it is pointed out that the learned Arbitrator, while deciding the arbitration award, ignored vital piece of evidence in the form of a categorical statement in notice dated 23.5.2017 as well as admission given by the proprietor of the respondent in his evidence.

5. Hence, on the basis of this submission, the petitioner has relied upon the judgment of the Hon'ble Supreme Court of India in the case of ***Popular Caterers .vs. Ameet Mehra and others***, reported in ***Manu/SC/1596/2025*** and thereby sought unconditional stay to the Award by invoking the powers under Section 36 (3) of the Arbitration and Conciliation Act, 1996 (hereinafter referred to as 'Act').

6. The perusal of the impugned order *prima facie* shows that the learned District Judge has wrongly interpreted the judgment of the Hon'ble Supreme Court in the case of ***Popular Caterers*** (supra). From the perusal of the judgment clearly established the fact that the Hon'ble Supreme Court has held that unconditional stay can be granted in the arbitration matter under Section 36 (3) of the Act.

7. The petitioner has also pointed out from the impugned order that he has made a request to the learned District Judge while deciding his application that he is ready to decide the main application also. However, his request was not accepted and hearing was taken on application under Section 36 (3) of the Act.

8. Considering the No Due Certificate dated 25.1.2023, which was duly proved before the Arbitrator and same was not considered by the Arbitrator while deciding the Arbitration Award, learned District Judge, by invoking the powers under

Section 36 (3) of the Act, in the light of the Judgment of the Hon'ble Supreme Court in the case of ***Popular Caterers*** (supra), could have granted unconditional stay to the award. However, he has misinterpreted the judgment of the Hon'ble Supreme Court of India. In the circumstances, I am satisfied that the petitioner has made out a *prima facie* case to grant stay to the impugned award.

9. Hence, issue notice to the respondent, returnable on 28.01.2026.

10. In the meantime, there shall be stay in terms of prayer clause (c).

11. The petitioner is permitted to serve the respondent by all permissible mode of service in addition to regular mode of service and file an affidavit of service on or before the next date, failing which, interim stay granted will be vacated automatically.

(PRAVIN S. PATIL, J.)