



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

WRIT PETITION NO.3605/2025

M/s. Hariom Projects Pvt. Ltd,
A Company duly incorporated under the
Companies Act, 1956,
Having its registered office at:
B-301, Shree Balaji Residency,
Behind Sangath Silver Apartment,
Sabarmati-Gandhinagar Highway, Motera,
Ahmedabad, Gujarat 380005
Through its Authorized Signatory:
Mr. Nadoda Punjabhai Manabhai,

... **PETITIONER**

...**VERSUS**...

The Union of India
Through its Chief Engineer (FY),
Hyderabad, Opposite Parade Grounds,
SP Road, Secunderabad- 500003
Also through Head Quarters
Chief Engineer, Bhopal Zone,
Military Engineer Services, Sultania
Infantry Lines, Bhopal 900236

...**RESPONDENT**

Shri S.S. Dewani, Advocate for petitioner
Ms Mugdha R. Chandurkar, Advocate for respondent

CORAM : PRAVIN S. PATIL, J.

DATED : 03.02.2026

ORAL JUDGMENT

Heard. By consent of the parties, this matter is taken for final disposal at admission stage.

2. The petitioner approached before this Court to challenge the order passed by the learned District Judge, Nagpur, dated 16.06.2025 in Arbitration Case No.153/2024 whereby according to the applicant, the learned District Judge, Nagpur, without recording any reasons has passed the impugned order and thereby granted stay to the arbitral award, hence seeks indulgence of this Court in the light of the provision of the Arbitration and Conciliation Act, 1996 (in short 'the Act of 1996') as well as the law laid down by the Hon'ble Supreme Court.

3. It is not disputed in the present appeal that the present respondent has preferred the appeal against the arbitration award dated 29.03.2024 by which the arbitrator has granted interest at the rate of 18% per annum to be compounded annually from 20.05.2013 on the amount due to claimant as per para (i) of his order and further interest at the rate of 18% per annum compounded annually from 01.04.2018 as well as the interest on

the costs of Rs.11 lakhs. Accordingly, the prayer was made to the learned District Judge, Ngapur, to quash and set aside the award to the extent of claim Nos.10 and 11 i.e., granting of interest at the rate of 18% per annum and further compounding the same annually from 20.05.2013 and further granting 18% interest on costs.

4. The respondent along with his appeal has further moved an application under Exhibit 8 to grant permission to deposit the principal amount as per the award of the sole arbitrator and application for stay to the directions to deposit interest at the rate of 18% as per the award dated 29.03.2024.

5. The present appellant has opposed for permission to deposit the principal amount as well as the stay application. It is the contention of the present appellant that as per the provisions of the Act of 1996, the principal amount alone does not constitute compliance with the award. As there is a challenge to the interest, the amount awarded towards the interest was also required to be deposited as per the provisions of the Act of 1996.

6. In the background of this factual position, the learned District Judge, Nagpur, has conducted the simultaneous hearing on the application on the grant of permission to deposit the amount as well as for grant of stay to the arbitral award. Learned District Judge, Nagpur, by the impugned order dated 16.06.2025, granted permission to the respondent to deposit the principal amount and also granted stay to the arbitration award during the pendency of the proceedings.

7. The appellant has challenged this order mainly on the ground that Section 36 (3) of the Act of 1996 mandates the deposit of entire decretal amount that is principal, interest and costs. So also, for granting stay to the impugned order, the recording of cogent reasons is mandatory. However, neither the respondent was directed to deposit entire amount with interest nor recorded any cogent reasons to grant of stay. Hence, invoke the jurisdiction of this Court in the matter.

8. In support of his submission, the appellant has relied upon the following judgments:

- i) *Balmer Lawrie and Co. Ltd. vs. Shilpi Engineering Pvt. Ltd. reported in 2024 SCC OnLine Bom. 758,*
- ii) *Pam Developments Private Limited vs. State of West Bengal, (2019) 8 SCC 112,*
- iii) *State of Maharashtra (Through Executive Engineer) vs. Khare and Tarkunde and another 2021 SCC OnLine Bom. 220 and*
- iv) *Popular Caterers Vs. Ameet Mehta and Ors. 2025 INSC 1354.*

9. The petitioner, by relying upon the above said judgments, has pointed out that in a money decree, 100% deposit of the awarded amount is mandatory for grant of stay. A liberal approach is not permitted in such matters. It is further pointed out that the Government is not entitled to preferential treatment under Section 36 (3) of the Act of 1996, and above all, it is his submission that in case, the Court is satisfied that the respondent has made out a case for grant of stay without deposit of the amount, then in that case, it is necessary to record the cogent reasons to reach to the conclusion as to how the respondent has made exceptional case for grant of blanket stay in the matter.

10. The respondent has strongly opposed the present application. It is the submission of the respondent that before the

arbitrator, the challenge is to the amount, which was not paid to the respondent. However, learned Arbitrator has levelled exorbitant rate of interest on the amount towards Claim Nos.11 and 12 as well as towards the costs and, therefore, same was the reason to challenge the said award before the learned District Judge, Nagpur. If amount towards interest would have been deposited, then the whole purpose of challenging the award will be frustrated in the matter. According to the respondent, this was not the intention of the legislature and, therefore, learned District Judge, Nagpur, has rightly applied the judicial mind and on deposit of principal amount, granted a stay in the matter. Hence, there is no need of any indulgence of this Court in the matter.

11. In the background of above said position and the perusal of the impugned order clearly demonstrate the fact that the respondent has deposited only principal amount of award, which was not a matter of challenge. The challenge is the amount of interest and, therefore, the amount towards interest by doing proper calculation as per the award was required to be deposited by the respondent in the matter. And if, the learned Court was of the

opinion that there is no need to deposit the amount of interest which is under challenge, then specific reasons ought to have been recorded by the learned District Judge, Nagpur. However, both issues are not properly dealt with by the learned District Judge, Nagpur, in the matter.

12. In this regard it will be relevant to consider the judgment of the Hon'ble Supreme Court in case of ***Pam Developments Private Limited*** (supra), in this judgment, it is held that Section 36 (3) of the Act of 1996 mandates that while considering an application for stay filed along with or after filing of objection under Section 34 of the Act of 1996, if stay is to be granted, then it shall be subject to such conditions as may deem fit. The said sub Section 3 clearly mandates that grant of stay to operation of the award is to be for reasons to be recorded in writing. Hence, while granting stay, the care must be taken in proceedings under Section 35 of the Act of 1996 to record the reasons by the concerned Court.

13. In the same judgment, it is also held that in view of the scheme of the Act of 1996 as well as provisions under Section 36 and 18 thereof, no exceptional treatment can be given to the Government while considering its stay application under the Act, 1996.

14. It is also pertinent to note that the Hon'ble Supreme Court has taken a consistent stand that where the award is in the nature of money decree, there is a requirement of deposit of 100% of awarded amount for grant of stay. Further a liberal view is not contemplated under Section 36 (3) of the Act of 1996 while imposing the condition for stay of the award. As such, it is clear that while granting stay, the reasons are to be recorded.

15. The recent view expressed by the Hon'ble Supreme Court is in such circumstances, is in the case of *Popular Caterers* (supra), wherein by considering the entire earlier view expressed in various judgments that the Court can grant stay to the execution of money decree, but it has to be established more than prima faice that

- i) the decree is egregiously perverse,*
- ii) is riddled with patent illegalities,*
- iii) is facially untenable; and/or*
- iv) such other exceptional causes similar in nature.*

16. In light of this legal position, I am satisfied that there should be the reasons to be recorded by the Court while granting stay to the arbitral award. In the present matter, admittedly, the challenge is to the interest per annum awarded by the Arbitrator. There was no challenge to the principal amount, which was directed to be deposited in the arbitration award. The prayers in the application is also clear on this issue. Therefore, if the District Judge is of the opinion that respondent has made out a case for grant of stay, he was duty-bound to record the reasons in the matter. The perusal of the impugned order nowhere shows reasons as expected under the provisions of the Act of 1996 and law laid down by the Hon'ble Supreme Court. Hence, in my opinion, the indulgence of this Court is necessary in the matter. Accordingly, I proceed to pass the following order:

ORDER

- i) The Writ Petition is allowed.
- ii) The order passed by learned District Judge, Nagpur dated 16.06.2025 in Arbitration Case No. 153/2024 is hereby quashed and set aside.
- iii) The matter is remitted back to the District Judge, Nagpur, to decide afresh the stay application on its own merits and by taking into consideration the provisions of law as well as the law laid down by the Hon'ble Supreme Court.
- iv) It is also made clear that learned District Judge, Nagpur, should take endeavour to decide the arbitration appeal as expeditiously as possible if there is no other impediment to the Court to decide the appeal.

17. The petition is disposed of in above terms. No order as to the costs.

(PRAVIN S. PATIL, J.)

R.S. Sahare