



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

CIVIL APPLICATION (CAO) NO.09/2026
IN
MISC. CIVIL APPLICATION (ARBITRATION) NO.481/2023 (D)

Omprakash Parmeshwarlal Jaiswal

Vs.

Shri Laxminarayan Permashwarlal Jaiswal and others

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

Court's or Judge's orders

Shri U.K. Bisen, Advocate for applicant
Shri N.L. Jaiswal, Advocate a/w Shri M.P. Dhavan, Advocate for respondent No.1
Shri S. Chimote, Advocate for respondent Nos.8 and 9

CORAM : PRAVIN S. PATIL, J.

DATE : 16.01.2026

By this application filed under Section 27 of the Arbitration and Conciliation Act, 1996, the prayer is made to issue summons/directions to the Superintendent, State Excise, Akola and the Sub-Inspector, State Excise, Akola-III to appear before the learned Arbitral Tribunal and/or to produce the documents and records mentioned therein.

2. Learned Counsel appearing for respondent Nos.8 and 9 though not disputed the fact that for assistance to the Arbitral Tribunal, Court can issue the summons witness by invoking the powers under Section 27 of the Arbitration and Conciliation Act, 1996, however, it is his submission that this exercise is required to be done by the Principal District Judge and not by this Court.

3. In support of the submission, the respondent has relied upon Sections 27 (3) and (4) of the Arbitration and Conciliation Act, 1996 which reads as under:

“Section 27 (3) The Court may, within its competence and according to its rules on taking evidence, execute the request by ordering that the evidence be provided directly to the arbitral tribunal.

Section (4) The Court may, while making an order under sub-section (3), issue the same processes to witnesses as it may issue in suits tried before it.”

4. According to him, the bare perusal of this provision clearly states that the word ‘Court’ is used in this provisions of which assistance can be sought by the Arbitral Tribunal. Therefore, Section 2 (e) of the Arbitration and Conciliation Act, 1996 is relevant whereby Court is defined as under:

“Section 2 (e) “Court” means-

(I) in the case of an arbitration other than international commercial arbitration, the principal Civil Court or original jurisdiction in a district, and includes the High Court in exercise of its ordinary original civil jurisdiction, having jurisdiction to decide the questions forming the subject-matter of the arbitration if the same had been the subject-matter of a suit, but does not include any Civil Court of a grade inferior to such principal Civil Court, or any Court of Small Causes;

(ii) in the case of international commercial arbitration, the High Court in exercise of its

ordinary original civil jurisdiction, having jurisdiction to decide the questions forming the subject-matter of the arbitration if the same had been the subject-matter of a suit, and in other cases, a High Court having jurisdiction to hear appeals from decrees of Courts subordinate to that High Court.”

5. From the definition of the Court, it is clear that the Principal Civil Court of original jurisdiction in a district and includes the High Court in exercise of its ordinarily original Civil Jurisdiction having jurisdiction to decide the question forming the subject matter to the arbitration.

6. In view of this provision of the Arbitration and Conciliation Act, 1996, according to the respondent, this Court being exercising Appellate Side Jurisdiction and not Original Side Jurisdiction, therefore, does not come under the purview of “Court” to exercise the power under Section 27 of the Act, therefore, it will be justified that such powers can be exercised by the Principal Civil Court of original jurisdiction of a District.

7. Applicant did not dispute this legal provision. However, it is his submission that this Court in catena of cases exercised the powers under Section 27 of the Act, therefore, this Court can exercise the powers, in terms of order of Arbitrator. Applicant failed to point out if provisions of the Act specifically defined “Court” and

powers under Section 27 of the Act can be exercised by District Court, as to why this Court should exercise extra-ordinary powers in the matter. It is settled position of law if statutory mechanism is provided by legislature to redress grievance, then this Court should be slow in exercising of extra-ordinary power.

8. It is further pertinent to note that under the provisions of Civil Procedure Code, the entire mechanism is provided for summoning and attendance of witness under Order XVI. Therefore, in my opinion, exercise under Section 27 of the Arbitration and Conciliation Act, can be done in better manner by District Court. Therefore, considering the specific provisions of the Arbitration and Conciliation Act, 1996, as referred above, which are clear enough, it would be proper for the applicant to move this application before the Principal District Judge, Akola.

9. In the circumstances, the Principal Civil Court of original jurisdiction of a District, where the subject matter of the suit lies, would be the proper Court of which assistance can be sought for issuing the summons under Section 27 of the Arbitration and Conciliation Act, 1996.

10. For the aforesaid reasons, the application stands disposed of with liberty to the applicant to move an appropriate application before the District Judge, Akola.

11. It is made clear that if such application is moved, the District Judge, Akola, should take effort to decide the same as expeditiously as possible.

12. Application stands disposed of. No order as to the costs.

(PRAVIN S. PATIL J.)

R.S. Sahare