

IN THE COURT OF DISTRICT JUDGE-3, AKOLA.

**Miscellaneous Civil Application No.467/2024.
National Highways Authority of India .Vs. Shakuntala+2.
CNR No. MHAK01-002956-2024.**

ORDER BELOW EXH.09
(Dated 14th January, 2025)

Present application is placed on record by the applicant/original respondent and thereby prayed to stay the execution proceeding regarding the arbitral award dated 12.03.2024.

2. In the said application, the applicant stated that learned Arbitrator, Akola passed an award in the case on 12.03.2024. The applicant got copy of said award on 19.03.2024. However, there is delay of 28 days in filing application under section 34(3) of the Arbitration and Conciliation Act. Hence, the applicant filed present proceeding for delay condonation along with application under section 34(3) of the Arbitration and Conciliation Act.

3. The applicant further stated that in pursuance of arbitral award dated 12.03.2024, the non-applicant has filed execution proceeding which is registered as Arbitration R.D. No. 333/2022, Shankutala .s. National Highways Authority of India. The said execution proceeding is pending on the file of 9th Jt. Civil Judge (S.D.), Akola. In the said proceeding, attachment warrant is issued and the same is in force till today.

4. The applicant further stated that it has every hope of success in the present petition. Hence, he prayed to stay the execution proceeding.

5. The applicant further stated that if the execution proceeding is not stayed the present proceeding will become infructuous.

6. Ld. advocate appearing for the non-applicant filed his reply on this application vide Exh.10. In his reply, the learned advocate for the non-applicant contended that the execution proceeding regarding recovery of arbitral amount of Rs. 3,87,95,525/- is pending on the file of 9th Civil Judge (S.D.), Akola. He further contended that he has no objection to stay the execution proceeding till next day subject to deposit of arbitral amount.

7. Heard both sides.

8. It is a matter of record that the applicant along with present application filed petition under section 34 of the Arbitration and Conciliation Act. The present petition is of condonation of delay. However, as stated by the applicant in execution proceeding attachment warrant is already issued by the executing Court. This fact is at all not disputed by the non-applicant. However, the contention of non-applicant is that he has no objection to stay the execution proceeding subject to deposit of award amount by the present applicant.

9. Admittedly, it will take some time to dispose off the

present proceeding pending on the file of this Court. In such circumstances if the execution proceeding is not stayed then certainly the present applicant will face inconvenience. In such circumstances, the execution proceeding pending on the file of 9th Civil Judge (S.D.), Akola needs to be stayed. However, while staying the execution proceeding it needs to direct the present applicant to deposit 75% of the decretal amount of award i.e. amount of Rs. 3,87,95,525/-. Thus, for the aforesaid reasons, the application deserves to be allowed. Hence the following order -

ORDER

- (i) The application is allowed.
- (ii) The execution proceeding bearing Arbitration R.D. No.333/2024, Shakuntala .Vrs. National Highways Authority of India pending on the file of 9th Civil Judge (S.D.), Akola is stayed till disposal of the present petition subject to deposit of 75% of the award amount of Rs. 3,87,95,525/- by the present applicant.
- (iii) Present applicant to deposit the aforesaid 75% of the amount of Rs. 3,87,95,525/- in this proceeding on or before next date.

Sd/-

(S.P. Shinde)

District Judge-3, Akola.

Date : 14.01.2025.