

IN THE COURT OF DISTRICT JUDGE, YAVATMAL

ARBITRATION R. D. NO.263/2015

Akola Janta Bank .Vs. Rahul Gandhi

Order Below Exh.46
[Passed on 3rd August, 2023]

1. The present application preferred by J. D. for depositing of Rs.10,000/- in bank till further order on the count that the case is yet to be decided on merit and J. D. approached to the Hon'ble High Court and order may passed in favour of him. The amount deposited by way of security cannot be returned.

2. The D. H. objected the application vide Exh.47 on the count that the said amount of Rs.10,000/- was not deposited by J. D. as a security and said amount is cost to be paid by J. D. to D. H.

3. Heard Adv. Jani for J. D. at length and Adv. Goenka for D. H.

4. On perusal of application, say of D. H. along with oral submissions of Adv. for both sides the following points

arise for consideration of this Court on which the Court answer thereon with reasons as follows:-

Sr.No.	Points	Findings
1.	Whether J. D. proves case for depositing of Rs.10,000/- in F. D. in bank account of Court till final decision of present proceeding ?	In the negative.
2.	What order?	As per final order.

Reasons

As to point No.1:-

5. The J. D. came with a case that amount deposited by J. D. of Rs.10,000/- is required to be deposited in bank account in order to avoid loss of interest thereon as the amount is security deposited by J. D. in the present proceeding. On perusal of record of the case it is observed that the Court imposed cost of Rs.10,000/- on J. D. while granting adjournment application in vide Exh.45 and the said cost in order to give privilege to J. D. the cost was treated as a part of due amount. Therefore, the said amount cannot be treated as a security which is deposited under law. The J. D. relied on the ratio held in the case of **K. L. Suneja and Anr. Vs. Dr. Manjeet Kaur Monga**, 2023 LiveLaw (SC) 68, wherein it was held by the Hon'ble Apex Court that -

Courts/Tribunals should mandatorily deposit amounts deposited by litigants with the Registry or Office in a bank account – Supreme Court issues directions – All Courts and judicial forums should frame guidelines in cases where amounts are deposited with the office/registry of the court/tribunal, that such amounts should mandatorily be deposited in a bank or some financial institution, to ensure that no loss is caused in future – These guidelines should be embodied in the form of appropriate rules, or regulations of each court, tribunal, commission, authority, agency, etc. exercising adjudicatory power. (Para 35)

The said ratio is not applicable to the present case for different facts in both cases. In the referred case the said amount deposited by J. D. as a security while in the present case the said amount is amount of cost imposed on the J. D. for adjournment and said amount treated for better convenience of J. D. as a part of due amount. The conversion of said amount into part of due amount cannot be treated as a security as expected by J. D. So that, the Court hereby conclude that the J. D. failed to prove that amount of Rs.10,000/- as a security in a general sense which is required to deposit in F. D. till final decision of present execution proceeding. Hence, the Court answer point No.1 in the negative.

As to point No.2:-

6. As the Court concluded that the J. D. failed to

prove the amount of Rs.10,000/- as a security, this application deserves for dismissal in the interest of justice. Both parties required to bear cost of present application. Hence, order.

Order

- 1) The application of J. D. at Exh.46 is hereby rejected.
- 2) Accordingly, application is disposed off.

Dated :03/08/2023.

(S.V. Hande)
District Judge, Yavatmal.
JO Code MH02237