



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

904 ARBITRATION APPEAL NO. 9 OF 2026

VARSHA YOGIRAJ PANDE AND ANOTHER

VERSUS

VISHWANATH KISANRAO GUPTA AND ANOTHER

...

Advocate for Appellants :

Mr. V. D. Hon, Senior Advocate i/b. Mr. Deshpande Amit Shrikant
Advocate for Respondent No.1 : Mr. Kanawade Ajay T.

...

WITH

CIVIL APPLICATION NO. 1869 OF 2026
IN ARBA/9/2026

...

CORAM : ARUN R. PEDNEKER, J.

DATE : 17.04.2026

PER COURT:

1. The learned Senior Advocate appearing for the Appellants submits that it was necessary for the Arbitrator to pass Award after consideration of evidence. The learned Senior Advocate submits that the Arbitral Award is bereft of any details or any consideration of evidence and that the Award is passed almost on admitted position, in absence of the Written Statement. The learned Senior Advocate submits that there is violation of Section 25 of the Arbitration and Conciliation Act, 1996 as there is patent illegality in the Arbitral Award in terms of Section 34(2A) of the Arbitration and Conciliation Act.

2. Considering the submissions, issue notice to the Respondents, returnable on 17.06.2026. The learned counsel accepts notice on behalf of Respondent No.1.

3. Parties are put to notice that if time permits the matter would be disposed of on the returnable date.

4. Call R & P from the learned District Judge as well as the learned Arbitrator.

5. The Hon'ble Supreme Court in the case of **Delta Distilleries Limited Vs. United Spirits Limited and another, 2014 ALL SCR 72**, at Paragraph No.19 has observed that in terms of Section 25(c) of the Act evidence is required to prove the claim.

The Paragraph No.19 is quoted below:

"19. As seen from these two sections, Section 25 (c) provides that in the event a party fails to appear at an oral hearing or to produce documentary evidence, the arbitral tribunal may continue the proceedings, and make the arbitral award on the evidence before it. This evidence can be sought either from any third person or from a party to the proceeding itself. The substitution of the phrase "parties and witnesses" under Section 43 of the earlier act by the phrase 'any person' cannot make any difference, or cannot be read to whittle down the powers of the Arbitral Tribunal to seek assistance from the court where any person who is not cooperating with the Arbitral Tribunal or where any evidence is required from any person, be it a party to the proceedings or others. It is an enabling provision, and it has to be read as such. The term 'any person' appearing under Section 27 (2) (c) is wide enough to cover not merely the witnesses, but also the parties to the proceeding. It is undoubtedly clear that if a party fails to appear before the Arbitral Tribunal, the Tribunal can proceed ex-parte, as

provided under Section 25 (c). At the same time, it cannot be ignored that the Tribunal is required to make an award on the merits of the claim placed before it. For that purpose, if any evidence becomes necessary, the Tribunal ought to have the power to get the evidence, and it is for this purpose only that this enabling section has been provided."

6. Per contra, the learned counsel appearing for Respondent No.1 submits that there can be no stay granted unless the Appellants deposit the decretal amount.

7. Prima facie, this court is of the view that there is violation of Section 25 of the Act.

8. Till the next date, there shall be interim stay to the execution of the Award.

9. However, the Appellants / Applicants shall deposit a costs of Rs.2,00,000/- towards costs that may be imposed on the Appellants, within a period of two (02) weeks from today.

10. After deposit the Respondent is permitted to withdraw the amount.

11. Stand over to 17.06.2026.

[ARUN R. PEDNEKER, J.]