

HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR

D.B. Civil Miscellaneous Appeal No. 3343/2022

The State Of Rajasthan & Ors.

----Appellants

Versus

M/s Ravasa Construction

-----Respondent

For Appellant(s)	:	Ms. Sheetal Mirdha, AAG with Mr. Prateek Singh
For Respondent(s)	:	Mr. R.P. Garg with Mr. Vikram Yadav

HON'BLE MR. JUSTICE ASHOK KUMAR GAUR
HON'BLE MR. JUSTICE ASHUTOSH KUMAR

Order

02/06/2023

Learned counsel for the respondent appearing as caveator submits that he has been supplied copy of the miscellaneous appeal as well as the application filed under Section 5 of the Limitation Act.

Learned counsel for the respondent has raised a preliminary objection regarding the maintainability of the application filed under Section 5 of the Limitation Act.

Learned counsel for the respondent places reliance on the judgment passed by the Apex Court in the case of **State of Maharashtra Vs. M/s. Brose Brothers Engineers & Contractors Pvt. Ltd.** reported in **2021 (6) SCC 460**.

Learned counsel for the respondent on the strength of the said judgment, submitted that the statutory limitation for filing the appeal under Section 37 of the Arbitration and Conciliation Act,

1996 (hereinafter to be referred as the 'Act of 1996') is 60 days and as such, the present appeal has been filed by the appellants is barred by the limitation as the same has not been filed within the statutory period.

Learned counsel for the appellants submits that the said judgment on which placed reliance is placed by the learned counsel for the respondent does not apply in the present appeal and some other judgments have also been passed by the Apex Court, whereby interpretation has been made in respect of the Section 37 of the Act of 1996.

Learned counsel for the appellants further submits that for execution of the award, respondent has already filed an execution application and as such, an attachment warrant has also been issued for depositing a sum of Rs.02,07,22,308/-, therefore interim order may be passed.

Heard learned counsel for the parties.

This Court, as an interim measure, directs that the effect and operation of the award dated 26.06.2015 and modified order dated 05.07.2022 passed under Section 34 of the Act of 1996, shall remain stayed subject to the condition that appellants would deposit Rs.02,07,22,308/- within a period of five weeks.

The respondent would be entitled for disbursement of 50% of the amount to be deposited by the appellants after furnishing the solvent security before the Commercial Court. The rest of the amount would be deposited in FDR in Nationalised Bank.

The respondent will also give an undertaking in the Commercial Court that in case appeal of the appellants will be

allowed, the respondent will refund the said amount disbursed to him, along with interest @ 6% p.a.

On fulfilling the said condition of deposition of amount by the appellants, further execution proceedings shall remain stayed till the next date of hearing.

List the matter after six weeks.

(ASHUTOSH KUMAR),J

(ASHOK KUMAR GAUR),J

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