

(2019) 05 DEL CK 0558

In the Delhi High Court

Case No : Original Miscellaneous Petition (COMM) No. 17 Of 2015, Miscellaneous Application No. 6369 Of 2018

Medirad Tech India Limited & Anr

APPELLANT

Vs

Technology Development Board

RESPONDENT

Date of Decision : 02-05-2019

Acts Referred:

Arbitration And Conciliation Act, 1996 — Section 28(3), 31(7), 34
Indian Contract Act, 1872 — Section 74

Citation : (2019) 4 R.A.J. 425 : (2019) 261 DLT 68 : (2019) 9 AD(Delhi) 292

Hon'ble Judges : Navin Chawla, J

Bench : Single Bench

Advocate : Sanjay Katyal, S.K.Dwivedi, Neeraj Malhotra, Sarul Jain, Jeevesh Mehta, Cassandra Zosangliani, Jinuma Barman

Final Decision : Dismissed

Judgement

Navin Chawla, J

1. This petition has been filed under Section 34 of the Arbitration and Conciliation Act, 1996 (hereinafter referred to as the 'Act') challenging the Arbitral Award dated 25.06.2015 passed by the Sole Arbitrator adjudicating the disputes that have arisen between the parties in relation to the Loan Agreement dated 30.08.2000 and the Supplementary Agreement dated 05.05.2005 executed between the parties.

2. The respondent/Technology Development Board has been constituted by the Government of India under the provisions of the Technology Development Board Act, 1995 for assisting and disbursing loan to the Companies/Organizations engaged in development and commercialization of indigenous technology and adaptation of imported technologies for wider domestic applications.

3. By the Loan Agreement dated 30.08.2000 the respondent granted a loan assistance of Rs.850 lakhs against the project cost of Rs.1750.11 lakhs under

Phase-I and Rs.525 lakhs against the project cost of Rs.1049.45 lakhs under Phase-II to the petitioner for implementing the two phases of the Project of Development and Commercialization of Technology in Radiation Therapy and Allied Sciences by the petitioner.

4. The Loan Agreement provides for the repayment of the principal amount of the loan assistance due in nine half yearly installments commencing from 01.05.2003. The petitioners were also to pay interest on the amount of the loan assistance at the rate of 6% p.a. from the date of first disbursement of the loan assistance. The interest was to be paid alongwith half yearly installments.

5. Clause 1.4 of the Loan Agreement further provides that in the event of any default in repayment of the installments of the principal amount or interest, the petitioners would pay an additional interest of 10% p.a. over and above the prescribed rate of interest.

6. By way of the Supplementary Agreement dated 05.05.2005, on the representation of the petitioners that there had been an increase in the cost of the project as also delay in completion of the project, the payment schedule and the rate of interest was modified. The installments for repayment were now rescheduled to begin from 01.02.2007 and the rate of interest was reduced to 5% p.a.

7. The respondent, claiming that there had been a default in repayment of the loan amount as also interest and royalty component, filed its claim before the Arbitrator claiming an amount of Rs.15,24,09,467/- alongwith interest at the rate of 24% p.a.

8. The petitioners, apart from defending the claim, raised counter claim against the respondent on the ground that due to refusal of the respondent to execute necessary documents for creation of pari passu charge upon the assets of the petitioners, financial facility extended by the UTI Bank (now known as Axis Bank) and the Bank of India stood withdrawn resulting in losses being suffered by the petitioners. This submission of the petitioners has been reiterated before this Court as a challenge to the Arbitral Award.

9. The Sole Arbitrator by the Impugned Award has rejected the defence of the petitioners and held that the petitioners had been unable to prove that non completion of the project was due to any action or inaction of the respondent thereby justifying the non-payment of loan installments by the petitioners. The Arbitrator, while rejecting the claim of the respondent for royalty charge, has upheld the claim of the respondent for repayment of the loan amount alongwith interest at the rate of 15% p.a.

10. Learned counsel for the petitioners has placed reliance on the Clause 11 of the Loan Agreement which reads as under:

"ARTICLE XI

HYPOTHECATION

11.1 Any and all equipment, apparatus, machineries, machineries spares, tools and other accessories, goods and/or the other movable property of the Borrower present and future, shall be hypothecated to the Board and if so required by the Board, the Borrower shall execute such Deed of Hypothecation and/or any such other document in favour of the Board. Such hypothecation of the Borrower's property in favour of the Board shall rank *pari passu* with the charges created by the Borrower in favour of the financial institutions.

11.2 Any construction and/or erection of any buildings and/or structures and/or of any land or other immovable property of the Borrower, present and future, shall be mortgaged by the Borrower in favour of the Board and the Borrower shall for this purpose execute any and all such deeds and documents and/or deposit such deed of title as called upon by the Board. Such charge in favour of the Board shall rank *pari passu* with the charges created by the Borrower in favour of the financial institutions.

11.3 The Board shall have the *pari passu* charge over the properties and assets of the Borrower along with the other financial institutions."

11. Learned counsel for the petitioner submits that Clause 11 of the Loan Agreement clearly stipulates that the hypothecation of the petitioner's property, both movable or immovable, in favour of the respondent shall rank *pari passu* with the charges created by the petitioner in favour of the financial institutions. This would be applicable to the financial assistance taken by the petitioner prior to or post the Loan Agreement. He further draws my attention to the letter dated 02.06.2005 by which UTI Bank extended a term loan facility of Rs.200 lakhs in favour of the petitioner subject to the extension of first charge on the fixed assets of the petitioner ranking *pari passu* with other lenders. He has also placed reliance on the letter dated 06.06.2005 by which the Bank of India offered credit facility of Rs.300 lakhs again on the condition of creation of a charge on the entire block of assets of petitioner ranking *pari passu* with the respondent, IDBI and UTI Bank.

12. Learned counsel for the petitioner submits that Clause 11 of the Loan Agreement clearly obligated the respondent to give its no objection as also execute all necessary documents for creation of such *pari passu* charge on the assets of the petitioner company in favour of the UTI Bank and Bank of India. It was on the refusal of the respondent to create such *pari passu* charge as also execute the necessary documents that the UTI Bank and the Bank of India refused to disburse credit facility thereby resulting in failure of the project and loss to the petitioner. He submits that the respondent had taken contradicting plea before the Arbitrator inasmuch as it stated that it had issued No Objection Certificate in favour of the petitioner with a view to help the petitioner, however, at the same time claimed that it was under no such obligation to dilute its security. The respondent had further claimed that it was under an obligation to

create pari passu charge only with the financial institutions holding a pre existing charge over the property on the date of sanctioning of the loan assistance by the respondent and not thereafter. Learned counsel for the petitioner submits that this stand of the respondent was clearly contrary to Clause 11 of the Loan Agreement and therefore, an admission on part of the respondent that it had failed to discharge its obligation under Loan Agreement.

13. Learned counsel for the petitioner further submits that the Arbitrator has wrongly rejected the defence and counter claims of the petitioner by holding that the petitioner is unable to prove that the financial facility extended by the UTI Bank or the Bank of India was withdrawn due to non creation of pari passu charge by the respondent. He submits that the onus of proving the contrary was on the respondent. In any case, if the Arbitrator felt that this was an issue to be decided, it should have called upon the petitioners to lead their evidence in this regard. By not adopting this course, the Arbitrator has erred in passing the Impugned Award.

14. On the other hand, learned senior counsel for the respondent has taken me through the Impugned Award and has contended that the Arbitrator has not only interpreted the terms of the Agreement in a reasonable manner but has also rendered a finding on fact, which cannot be said to be unreasonable or perverse, warranting any interference of this Court. He submits that in fact the Arbitrator has also rejected the claim of the respondent on royalty charges.

15. I have considered the submissions of the learned counsels for the parties.

16. The Arbitrator in the Impugned Award has interpreted Clause 11 of the Loan Agreement and held as under:

"36. A conjoined reading of Article 11.1 to 11.3 and 6.9 (v) is that the movable and immovable assets / properties hypothecated and mortgaged by the title deeds by and on behalf of respondent No. I company was to rank pari passu with the charges created by the borrower in favour of the financial institution. It was more clearly stated in Article 11.3, which has been reproduced above. However, Article 6.9.4 (iv), which is a general covenant, bars the borrower, i.e., the respondent No. I from hypothecation or mortgage etc. of its assets and properties in favour of any person without the approval of the borrower. Harmonious interpretation of the Article 11 and Article 6.9 is that the claimant Board's charge over the movable and immovable assets and properties of the respondents, hypothecated / mortgaged with it was to rank pari passu with the charges created by the respondent No.1 with other financial institutions with the approval of the claimant Board. The parties knew that the respondent No. 1 would borrow loan for this project from other financial institutions after taking approval from the claimant Board. The approval of the board is necessary for the borrower, i.e., the respondent No.1, to create pari passu charge in respect of the properties which have been hypothecated and mortgaged with the claimant in favour of other financial institutions / banks. None of the covenants of the

hypothecation deed / mortgage deed etc. made it mandatory for the claimant Board to cede pari passu charge on the properties of the respondent No.1 with other financial institutions and banks. The Board, therefore, had a discretion in granting approval. In the rejoinder to the reply of the respondent No.1, the claimant Board has alleged that it was not obliged to extend pari passu charge over the movable and immovable properties of the respondent No.1, hypothecated / mortgaged with it in favour of the Bank of India and Axis Bank, yet it had issued "no objection".

17. I do not find the interpretation placed by the Arbitrator on the effect of Clause 11 of the Loan Agreement to be in any manner incorrect so as to warrant any interference by this Court. In any case, the Arbitrator was within his jurisdiction to interpret the effect of Clause 11 of the Loan Agreement and this Court cannot interfere with the same on the ground that it would have preferred another interpretation to such Clause.

18. In *Associate Builders vs. Delhi Development Authority*, (2015) 3 SCC 49, the Supreme Court emphasized that:-

"42.3. (c) Equally, the third subhead of patent illegality is really a contravention of Section 28(3) of the Arbitration Act, which reads as under:

"28. Rules applicable to substance of dispute. (1)-(2) (3) In all cases, the Arbitral Tribunal shall decide in accordance with the terms of the contract and shall take into account the usages of the trade applicable to the transaction."

This last contravention must be understood with a caveat. An Arbitral Tribunal must decide in accordance with the terms of the contract, but if an arbitrator construes a term of the contract in a reasonable manner, it will not mean that the award can be set aside on this ground. Construction of the terms of a contract is primarily for an arbitrator to decide unless the arbitrator construes the contract in such a way that it could be said to be something that no fair-minded or reasonable person could do.

43. In *McDermott International Inc. v. Burn Standard Co. Ltd.*, (2006) 11 SCC 181 this Court held as under: (SCC pp. 225-26, paras 112-13)

"112. It is trite that the terms of the contract can be expressed or implied. The conduct of the parties would also be a relevant factor in the matter of construction of a contract. The construction of the contract agreement is within the jurisdiction of the arbitrators having regard to the wide nature, scope and ambit of the arbitration agreement and they cannot be said to have misdirected themselves in passing the award by taking into consideration the conduct of the parties. It is also trite that correspondences exchanged by the parties are required to be taken into consideration for the purpose of construction of a contract. Interpretation of a contract is a matter for the arbitrator to determine, even if it gives rise to determination of a question of law. [See *Pure Helium India (P) Ltd. v. Oil and Natural Gas Commission*, (2003) 8 SCC 593:2003 Supp (4)

SCR 561 and D.D.Sharma v. Union of India.] (2004) 5 SCC 325.

113. Once, thus, it is held that the arbitrator had the jurisdiction, no further question shall be raised and the court will not exercise its jurisdiction unless it is found that there exists any bar on the fact of the award."

19. In any case, the question of interpretation of Clause 11 of the Loan Agreement lost all its significance inasmuch as the Arbitrator on appreciation of evidence led before him has held that the petitioners were unable to prove that the loan and credit facility was not disbursed to the petitioners by the UTI Bank or the Bank of India only because of the respondent's refusal to complete the documentation to create the *pari passu* charge on the petitioners' properties.

20. I may only reproduce the relevant findings of the Arbitrator in this regard as under:

"38. A careful reading of Clause 11.1, 11.2 and 11.3, reproduced above, do show that at the time of execution of the loan agreement on 30.8.2000 the claimant and the respondents both were conscious and aware that the project would require further financing by other financial institutions also which would need creation of *pari passu* charge on the property which has been mortgaged / hypothecated with the claimant as security for the loan assistance provided by the claimant. In the statement of defence, the respondents have themselves mentioned that the claimant had issued 'No Objection' which facilitated the sanction of the loan by the Bank of India, Axis Bank but the documentation was not completed. What was the nature of the "No Objection" given by the claimant Board has not seen the light of the day. Neither the respondents have filed it nor has the claimant given its copy. No Objection Certificate has also not been called for from the bank. It is argued by the respondents that 'No Objection' issued was for sharing of *pari passu* charge over the movable and immovable properties of the respondent No. I. The claimant in rejoinder to the statement of defence and reply to the counter claim has submitted that though the claimant was not obliged but indeed had issued 'no objection' to the sharing of *pari passu* charge with the lending Banks, Bank of India and Axis Bank and further that the documentation was to be done after the money was released by those banks but before that stage the banks backed out. On the contrary, the respondents have drawn attention to the various minutes of the joint meeting of the financial institutions including the claimant which show that the claimant had not agreed to the creation of *pari passu* charge with other financial institutions which had agreed to lend money. It is also pertinent to note here that though these respondents in their statement of defence as well as during the hearing of the case strenuously submitted that non sharing of the *pari passu* charge over the properties was the moot cause for the non completion of the project yet the respondents have not called for record of the Bank of India or the Axis Bank to show that they had ever approached the claimant Board for completion of documentation for allowing *pari passu* charge over the properties of respondent No. I as collateral securities to the loan advanced by them and that amount of

loan was not disbursed by the Bank of India or the Axis Bank (formerly UTI). Solely for the reason that the claimant declined to share pari passu charge with those banks or complete the documentation work. The minutes of the joint lender institution did show that the claimant had not created pari passu charge but it fell much short of proving that it was the only and sole reason for the respondents' inability to procure of essential and important equipments which were necessary for completion of the project. The respondents ought to have examined the bank official to prove that the loan was not disbursed or cash credit limit was not opened to the respondent No. 1 because the claimant refused to complete documentation to create pari passu charge of the properties of respondent No. 1 mortgaged and hypothecated with the claimant.

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48. Some documents have been filed by the claimant which were discussed in the foregoing paragraphs. A careful scrutiny of all these documents does not prove that the non-ceding of the pari passu charge by the claimant was the sole reason for the banks to withdraw their financing offer or for removal of MRI machines by the Philips Electronic India Limited which had supplied it. The relevant extract of the documents submitted by the respondents have already been reproduced in the foregoing paragraphs. R-2 at page 49 of the statement of defence filed by the respondents shows that Axis Bank had given loan of Rs. 200 lakh by opening L.C. for the purchase of CT plus Simulator. For this the bank wanted first charge of the fixed assets of the company ranking pari passu charge with other terms "lender". It also wanted first hypothecation charge on the term assets of the company both present and future. One of the condition of the term loan was that drawdown of the facility would be permitted only on completion of all documentation formalities. Annexure I containing terms and conditions of the term loan annexed with this letter, as reproduced in the foregoing paragraph, shows that pari passu charge was to be ceded by the TDB and IDBI within three months from the date of disbursement of the loan. The respondents have simply made allegations in the statement of defence and also in the affidavit of the respondent No. 2 that the withdrawal of the term loan facility sanctioned by the Axis Bank was as a result of non-ceding of pari passu charge over the properties of the respondents by the claimant. It has not produced any document from the bank that the term loan sanctioned by opening L.C. etc. was withdrawn / cancelled because TDB had refused to complete the documentation for creation of pari passu charge over the hypothecated properties in favour of the bank. Furthermore, IDBI which had also given some loan to the respondents initially was holding a pari passu charge over the properties of the respondents hypothecated in favour of the claimant. The Axis bank wanted both TDB and Axis Bank to allow pari passu charge over the properties in favour of Axis Bank. Not a word has been stated by the respondents in the statement of defence or in the counter claim nor has any document been filed which shows that IDBI had granted and completed the documentation for creating pari passu charge over the hypothecated / mortgaged properties of the respondents in favour of Axis

Bank against the term loan sanctioned and disbursed by It. The minutes of the lenders meeting dated 29.1.2008 (R-5) to the statement of defence shows that the representative of Axis Bank had informed that the bank had given loan of Rs. 500 lakh and Rs. 200 lakh for Linux machine and accessories and CT Scan machine respectively and that the account of the respondent with the bank was NPA (non-performance assest) with Axis Bank and legal action was being taken against the respondents. Furthermore, the representative of the bank further wanted ceding of pari passu charge on the respondents' assets for additional loan of Rs. 200 lakh given to the respondents and the claimant was not agreeable to the ceding of pari passu charge on additional loan and the IDBI also did not agree to ceding of pari passu charge on the additional loan. Further, the representative of the Axis Bank agreed that if it was not possible for the claimant or the IDBI to agree to pari passu charge then they should give a clean chit to have exclusive charge of Axis bank on the other bought out with the advance of Rs.200 lakh, loan and both TDB and IDBI agreed to consider the request and wanted the Axis Bank to send relevant details of the assets bought to take a decision on this matter. The minutes shows that Axis Bank had undertaken to send the details of the assets bought with the amount of the additional loan. From these letters of the Axis Bank and the minutes of the lenders meeting, discussed above, it is clear that the claimant Board as well as IDBI both were holding pari passu charge over the assets of the respondent No. 1 and that for additional loan of Rs. 200 lakh sanctioned to the respondent No. 1 by Axis Bank for acquiring additional assets; CT Simulator the said bank wanted security by way of extending pari passu charge of the Axis Bank with the claimant and the IDBI. These documents further show that loan of Rs. 500 lakh and Rs. 200 lakh for Linux machine and accessories and CT Scan machine respectively were taken earlier and further that the account of the respondents with the Axis Bank in respect of that loan was treated as NP A account. There is neither any allegation from the respondents nor is there any reference in the minutes or the letters of the Axis Bank that the loan of Rs. 500 lakh and Rs. 200 lakh, referred to in the minutes of the lenders meeting dated 29.1.2008 for buying certain machines / equipments was also secured by extending pari passu charge over the assets of the respondents by the claimant and the IDBI. It will also be relevant to mention here that the cost of the project envisaged when the loan agreement dated 30.8.2000 was executed and the claimant sanctioned loan of Rs. 850 lakh was Rs. 1,750.11 lakh. Out of the total cost, the amount of the finances arranged from other financial institutions was Rs. 175 lakh. When the supplementary agreement dated 5.5.2005 was executed between the claimant and the respondent No. 1 the cost of the total project was revised to Rs. 2,258 lakh and out of it the claimant TDB had already disbursed the loan assistance of Rs. 840 lakh. The IDBI had advanced loan of Rs. 75 lakh. The claimant had already taken loan of Rs. 200 lakh from IDBI and Rs. 500 lakh from UTI Bank (Axis Bank). There was unsecured loan of Rs.156 lakh. The loan assistance of Rs. 200 lakh which the respondents further wanted from the Axis Bank for purchasing CT Simulator etc. appears to be far exceeding the cost of the project and further

diluted the security which secured the loan assistance of the claimant. Anyway, the minutes of the lenders meeting dated 29.1.2008 shows that the representatives of the Axis Bank had submitted that if pari passu charge was not possible to be ceded by the claimant and the IDBI they could give clean chit to have exclusive charge of Axis Bank the assets bought out from Rs. 200 lakh loan sanctioned by the Axis Bank for CT Simulator. Both the claimant as also the IDBI agreed to consider this request after the relevant details of assets bought from the additional loan were submitted by the bank to them. The Axis bank agreed to send necessary details of the assets which were to be bought with Rs. 200 lakh loan both to the claimant and the IDBI. There is no allegation from the respondent nor is there any document showing that the Axis bank had submitted the details of the assets which were acquired with the additional loan assistance of Rs. 200 lakh by the respondent No. 1 for giving their 'No Objection' to the creation of exclusive charge of the said bank over the newly acquired assets. There is also no allegation or any documentary proof to show that TDB and / or IDBI bank had declined to accept this request of the Axis bank. It is also pertinent to note that both the claimant and the IDBI were not agreeable to cede pari passu charge of the Axis bank to secure the additional loan of Rs. 200 lakh sanctioned for the purchase of CT Simulator. Therefore, blaming only the claimant for putting hindrance in the completion of the project will not be justified. No allegation has been made that the claimant TDB could have extended the pari passu charge, as requested by Axis Bank, without taking the consent and 'No Objection' from IDBI bank. Therefore, the contention of the respondents-No. 1,2 and 4 that the claimant committed breach of the terms and conditions of the loan agreement dated 30.8.2000 and the supplementary loan agreement dated 5.5.2005 is devoid of any force. It was not justified in blaming the claimant for non completion of the project and non payment of the loan instalments."

49. Firstly, it is note worthy that there is no allegation that IDBI, which had pari passu charge over the assets of the respondents, had given its 'No Objection' and it was only the TDB which refused to allow it. Furthermore, there is not an iota of evidence to show that the bank had withdrawn its offer of term loan or cash credit limit for the sole reason that the TDB had declined to cede pari passu charge over the assets of the respondents in order to secure the term loan or the cash credit limit, above mentioned, given by the Bank of India. The best evidence could have been the record of the Bank of India. It may also be important to note that the respondents have filed service report of Phillips Electronics India Ltd.. It does not show that MRI machine was removed by the Phillips Electronic India Ltd. for the reason that LC opened by the bank was withdrawn much less it was withdrawn for the reason that the bank was not allowed pari passu charge of Bank of India by the claimant over the assets of the respondents.

50. It may also be noteworthy that the respondents have admitted that they carried out construction of the building much more than what was required for

first phase of the project. They have justified it saying that some construction for housing radiology equipments was required to be made at the same time and secondly the Project Monitoring Committee did not find fault with the construction of additional building.....

51. From the above discussion, it is not possible to hold that the claimant TDB had committed breach of the terms and conditions of the loan agreement dated 30.8.2000 or the supplementary agreement dated 5.5.2005 and it could be held responsible for the non completion of the first phase of the project and also for the lesser revenue received by the respondents from the facilities provided by the respondents' hospital....."

21. A reading of the above findings of the Arbitrator clearly shows that the petitioners had failed to prove before the Arbitrator that the banks had withdrawn their offer of term loan or cash credit limit for the sole reason that the respondent had declined to cede pari passu charge over the assets of the petitioners.

22. The learned counsel for the petitioners submitted that it was for the respondent to prove this issue cannot be accepted. It was the case of the petitioners that the term loan and cash credit limit facility were withdrawn by the UTI Bank and the Bank of India due to non execution of the documents creating pari passu charge by the respondent. The onus of proving this issue therefore lies only on the petitioners.

23. Equally, it was not for the Arbitrator to advise the parties to produce evidence in support of their claims and defences. The Arbitrator is to adjudicate on the basis of the evidence that is led before him by the parties. It is not as if the petitioner was unaware of its own case or the case of the respondent or was taken by surprise or the arbitrator decided an issue that was never in contemplation of the parties when they led their respective evidence. Therefore, the submission of the learned counsel for the petitioner that the arbitrator should have called for further evidence from the parties and that this has vitiated the Award, cannot be accepted.

24. In any case, the above being a finding of facts by the Arbitrator, which cannot be said to be unreasonable or perverse, it is not for this Court to interfere with the same and to re-appreciate the same as if sitting as a Court of Appeal.

25. The next challenge of the petitioners is to the award of rate of Interest by the Arbitrator. Learned counsel for the petitioner submits that keeping in view the object of the respondent Corporation as also the provision of Section 74 of the Indian Contract Act, 1872, the rate of interest awarded by the petitioner is excessive. He submits that the respondent had infact reduced the interest in its Supplementary Agreement dated 05.05.2005.

26. I do not find any merit in the submission of the learned counsel for the petitioners. The Loan Agreement read with the Supplementary Agreement clearly

stipulate that the rate of interest on the loan amount is 5% p.a., however, in case of default by the petitioners, the petitioners were to pay additional interest at the rate of 10% p.a. The Arbitrator in the Impugned Award has found interest at the rate of 15% p.a. to be reasonable keeping in view the practice in the industry. In any case, once the interest is awarded by the Arbitrator in terms of the Loan Agreement between the parties and is otherwise found to be reasonable, with the Arbitrator having applied his mind to arrive at this rate, it is not for this Court to interfere with the same. Section 31(7) of the Act vests discretion on the Arbitrator to determine the reasonable rate of interest and unless it is shown that the rate of interest awarded by the Arbitrator is completely unreasonable or against the contractual terms or any statute, it is not open to this Court to interfere with the same.

27. I may also note that during the pendency of this petition, the parties had entered into a settlement as recorded in the order dated 03.06.2016. The petitioners thereafter filed an undertaking before this Court to adhere to the schedule incorporated in the order dated 03.06.2016, however, challenging the claim of interest by the respondent. Thereafter the petitioners made certain payments towards the agreed amount. Learned counsel for the petitioners submits that a payment of around Rs.7.75 crores has been made by the petitioners to the respondent between 18.05.2016 to 29.06.2018. He submits that the remaining amount could not be paid due to financial constraints faced by the petitioners. On the other hand, learned senior counsel for the respondent submits that in terms of the Award more than Rs.20 crores is still outstanding from the petitioners to the respondent. The above is being recorded only to bring on record the facts which took place during the pendency of the present petition.

28. In view of the above, I find no merit in the present petition. The petition is dismissed with cost quantified at Rs.50,000/-.