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**IN THE HIGH COURT OF JUDICATURE OF BOMBAY**  
**BENCH AT AURANGABAD**

**WRIT PETITION NO.10172 OF 2014**

Shriram Transport Finance Co. Ltd.,  
Through its Branch Manager,  
R/o New AUSA Road, IDBI Banking Building  
2nd Floor, Latur,  
Taluka and District - Latur  
Mr. Sivaji s/o Govindrao Kute  
Age-38 years Occ-Service  
R/o Tilak Nagar, Aurangabad

PETITIONER

VERSUS

Balaji s/o Eknath Koyale  
Age-33 years, Occ-Business,  
R/o Sarfajpur, Post Halki,  
Taluka Shirur Anantpal,  
District - Latur  
At present Prakash Nagar, Latur

RESPONDENT

.....

Mr. S. S. Gangakhedkar, Advocate for the petitioner  
Mr. S. M. Morampalle, Advocate for the respondent

.....

**[CORAM : SUNIL P. DESHMUKH, J.]**

**DATE : 22<sup>nd</sup> JUNE, 2015**

**ORAL JUDGMENT:**

1. Rule. Rule made returnable forthwith and heard finally with consent of learned advocates for the parties.

2. After hearing learned advocates for the parties, the situation emerges that application under Exhibit-18 in Regular

Civil Suit No. 123 of 2013 by the defendant to refer the matter for arbitration pursuant section 8 of the Arbitration and Conciliation Act, 1996, has been turned down for want of original agreement or for that matter certified copy thereof.

3. Learned advocate for the petitioner refers to order in "*Shriram Equipment Finance Co. Ltd., V. Chetam Earthmovers*" decided by this court under order dated 2<sup>nd</sup> September, 2014 in writ petition No. 1334 of 2014 and a decision reported in 2000 (7) *Supreme* 216 "*Refrigeration and Appliances V. Jayaben Bharatkumar Thakkar*". He further contends that now original / certified copy of the agreement is available with the defendant.

4. Having regard to object and purpose underlying the Arbitration and Conciliation Act, 1996 more particularly when request is being made to re-agitate the application Exhibit-18, by letting the petitioner - defendant to place on record copy of concerned agreement, I deem it appropriate that such an opportunity is required to be given, since it would be expedient.

5. In view of aforesaid, the impugned order dated 4<sup>th</sup> September, 2014 passed by 3<sup>rd</sup> Joint Civil Judge, Junior Division, Latur on Exhibit-18 in Regular Civil Suit No. 123 of 2013 is set aside. Application Exhibit-18 stands restored to its position as

was subsisting prior to the impugned order. It would be open for the petitioner to produce original / certified copy of the concerned agreement. The court may decide said application on merits and contentions of the parties.

6. Writ petition, as such, is allowed. Rule is made absolute in aforesaid terms. It appears that costs of Rs.10,000/- had been directed to be deposited by this court under its order dated 25<sup>th</sup> November, 2014. Learned advocate for the petitioner states that the amount of costs has been deposited in this court. Having regard to the same, it would be open for the respondent - plaintiff to withdraw the amount of costs.

**[SUNIL P. DESHMUKH, J.]**