

IN THE HIGH COURT OF BOMBAY AT GOA

WRIT PETITION NO. 784 OF 2015

M/s. Western Vision Business Industries Limited,
A Company incorporated under
the Companies Act 1956,
With registered office at Radhe Arcade,
C-Block, Top Floor, Nr. City Plus Multiplex,
Gandhinagar, Gujarat – 382 007,
Represented by its authorized signatory
Shri Anil Mewada,
R/o Plot No.1019/1,
Sector 2-D, Gandhinagar,
Ahmedabad Gujarat.

..... Petitioner

V e r s u s

KLA India Public Limited,
A Company incorporated under
the Companies Act 1956
With registered office at
2nd Milestone, Kichha Road,
Rudrapur-263 153, District: US NAGAR,
Uttarakhand (India)
Represented by its Authorized Signatory,
Mr. Domingos Fernandes,
R/O H. No. E-11, Portais Wado,
Panaji-Goa 403 001.

..... Respondent

Mr. G. Agni, Advocate for the Petitioner.

CORAM: C. V. BHADANG, J.
DATE: 8TH OCTOBER, 2015.

ORDER:

Heard Mr. Agni, the learned counsel appearing for the petitioner.

2. The petitioner is the original respondent before the Arbitrator. It appears that the respondent herein (claimant before the learned Arbitrator) had filed a rejoinder along with Annexure C-1 producing certain additional documents. A perusal of the Minutes of the proceedings dated 12/7/2014 show that the learned Arbitrator had allowed the respondent/claimant to file an additional Affidavit-in-Evidence in view of the fact that the documents which were sought to be produced were already on record. It appears that such an additional Affidavit of Evidence was filed by the respondent. The order impugned herein is dated 20/8/2015 passed by the learned Arbitrator. The challenge is on the ground that some additional documents which were not part of the documents filed along with the rejoinder Annexure C-1 have also been allowed to be produced.

3. Mr. Agni, the learned counsel for the petitioner has taken me through the impugned order dated 20/8/2015, material part of which reads thus:

“I have gone through the application and also heard Learned Counsel for the parties and have also gone through the judgments cited by Mr. Gohil. The judgments referred to by Mr. Gohil are under Order 18 of the CPC and under Evidence Act. While the provisions of CPC are strictly applicable to the proceeding in Court, the Arbitral Tribunal is not bound

by the strict principles of CPC and can lay down its own procedure in the interest of justice. Quite of few documents which are now placed on record are part of proceedings and I do not find any justification not to permit them to be placed on records. Though I have not been able to see the entire set of documents filed along with supplementary affidavits, however if they are part of Annexure C1 of rejoinder, as is contended by the claimant, and are also part of record which the witness had sought to verify in terms of the observations made in the proceedings held on 14th July 2014, in my view the same can also be permitted to be placed on record as they arise out of cross examination of the witness. In any case as the witness is still under cross examination, in my opinion, no prejudice would be caused to the respondent in case the said documents, which appear to be relevant, are placed on record as the respondent will still have opportunity to cross examine the witness even on those documents. I therefore permit the supplementary affidavit and documents to be taken on record. Objections stand disposed off.”

4. It was submitted by Mr. Agni, the learned counsel that there

were no proceedings held on 14/7/2014, as recorded in the said order. Be that as it may on a prima facie reading of the order it is manifest that the learned Arbitrator has said that if the documents are part of Annexure C-1 of rejoinder (as is contended by the respondent claimant) and are also a part of the record which the witness had sought to verify in terms of the observations earlier made, the same can be permitted to be placed on record, as they arise out of the cross examination of the witness. The learned Arbitrator has also found that as the witness is still under cross examination, no prejudice would be caused to the petitioner (respondent before the arbitrator) in case the documents, which appear to be relevant are placed on record. In that view of the matter, I do not find that any case for interference is made out. The Writ petition is accordingly dismissed.

C. V. BHADANG, J.

Ap/-