

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 442 OF 2015**

Manoj Construction Company ..Petitioner
Vs.
Sassondock Matsyaudhyog Sahakari Soc Ltd. ..Respondent

Mr. S. V. Pitre for the Petitioner
Mr. V. V. Pai for the Respondent

CORAM : R. M. SAVANT, J.
DATE : 3rd FEBRUARY, 2015

P.C.

1 The Writ Jurisdiction of this Court is invoked against the order dated 16-10-2014 passed by the Learned Joint Civil Judge Senior Division, Panvel, by which order the application Exhibit 27 filed by the Plaintiff for referring the parties to Arbitration, came to be rejected.

2 The said application has been rejected inter alia on the ground that by filing the Suit in question the Plaintiff has waived his right to invoke the Arbitration clause. Secondly that the issues have already been framed in the Suit. The Trial Court has therefore observed that the conditions stipulated in Section 8 of the Arbitration and Conciliation Act, 1996, have not been satisfied.

3 In my view, having regard to the reasons mentioned in the impugned order as also having regard to the purport of Section 8 of the said

Act, the finding of the Trial Court that the Plaintiff has waived his right to invoke the Arbitration clause, cannot be found fault with. No case for interference in the Writ Jurisdiction of this Court is made out. The Writ Petition is accordingly dismissed.

4 However, since the Plaintiff has chosen to file the Suit in question, needless to state that the same would be tried on its own merits and in accordance with law.

[R.M.SAVANT, J]