

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
ARBITRATION PETITION NO. 54 OF 2015

Sanjay Shantaram Patil
: V/S :
Amar Gokul Patil & Ors.

.....Petitioner

.....Respondents

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Mr. Sandesh Patil i/by. Mr. Pawan S. Patil, Advocate for the petitioner.

Mr. A.A. Garge i/by. Mr. Jitendra H. Oak, Advocate for the respondents.

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Coram :- Smt. R.P. SondurBaldota, J.

29th October, 2015.

P.C. :-

1). This application is filed under Section 11(5) of the Arbitration and Conciliation Act, 1996 for reference of the dispute, inter-se, the partners for adjudication.

2). The existence of the arbitration agreement between the parties is admitted. Mr. Garge, learned Advocate appearing for the respondents, however, submits that there is no arbitral dispute for the purpose of reference.

3). The partnership firm of which the parties to the proceedings are partners, had undertaken a single transaction of purchase and sale of immovable property towards which there obviously were tax liabilities of the firm, as well as, of the individual partners in respect of their share in

the consideration of the sale. Initially, the parties had earmarked a sum of Rs.30,00,000/- and set it apart for the purpose of the tax liability of the firm. However, subsequently each of the respondents withdrew a sum of Rs.10,00,000/- from that amount for discharging their individual tax liabilities. It is their contentions that, with that money they have paid their share in the tax liabilities of the firm.

3). Mr. Patil, the learned Advocate appearing for the petitioner, however, points out that the amount actually spent by each respondent towards the tax liability for the relevant year is of Rs.3,00,000/- and that there is nothing to indicate that the payment of Rs.3,00,000/- each made by the respondents was towards the tax liability of the firm. Besides, the respondents are not even in a position to state across the bar, the extent of the tax liability of the firm. In the circumstances, it cannot be said that, there is no arbitrable dispute between the parties. Hence, the petition is allowed. Mr. A.L. Alaspurkar, Retired District & Sessions Judge, residing at 1/31, Dhanishta Tarangan Complex, Behind Cadbury Factory, Pokhran Road No.1, Thane (W), 400 605 is appointed as an Arbitrator to arbitrate the dispute reflected in the petition.

. The parties to act on the authenticated copy of this order.

(SMT. R.P. SONDURBALDOTA, J)