

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
COMPANY APPLICATION (L) NO. 186 OF 2015
IN
COMPANY PETITION NO. 411 OF 2014

Nagrajan Prakash ... Applicant

IN THE MATTER BETWEEN :

Nagrajan Prakash ... Petitioner

Versus

M/s. Prince Ware International Pvt.Ltd. ... Respondent

Mr.Amol Gatne for the Applicant.

Mr.Prantik Mujumdar i/b. M/s. M.P. Savla and Associates for the Respondent.

CORAM : S.J. KATHAWALLA, J.

DATED : 17TH APRIL, 2015

P.C.

1. The learned Advocate appearing for the Respondent undertakes to file Vakalatnama. The undertaking is accepted.

2. The above Petition was taken up for hearing on 28th November, 2014, when the parties agreed before this Court that the Respondent - M/s. Prince Ware International Pvt.Ltd. should deposit an amount of Rs.10 Lacs with the Prothonotary and Senior Master of this Court within a period of three weeks from the date of order and thereafter all disputes and differences between the parties be referred to the sole arbitration of

any Advocate of this Court, to be appointed by this Court. This Court appointed Dr.B.B.Saraf, Advocate as the sole Arbitrator to decide the disputes and differences between the parties.

3. Thereafter, the original Petitioner (claimant before the Arbitrator) insisted that the Arbitrator should inform him the fees payable for the entire proceedings. The original Petitioner (claimant before the Arbitrator) also recorded that he has learnt that the Advocate representing the Respondent happens to engage the Arbitrator in his personal capacity as an Advocate and therefore the Arbitrator should clarify the position.

4. In view of the above, the learned Arbitrator by his letter dated 3rd February, 2015 recused himself from the matter.

5. The above Application is now taken out by the Applicant (original Petitioner) for the following reliefs :

“(a) That this Hon'ble Court be pleased to recall the order dated 28th November, 2014 passed in Company Petition no. 411 of 2014 and hear the Company Petition No. 411 of 2014 afresh on its merits and pass an appropriate order in regards to the controversy in the matter”.

6. The learned Advocate appearing for the Applicant (original Petitioner) has informed the Court that the Applicant is finding it difficult to afford the fees of the learned Arbitrator and therefore the Company

Petition be decided in Court. As stated hereinabove, the order dated 28th November, 2014 is passed by consent of the parties. However, the nomination of Arbitrator was left to the Court to decide. The Company has deposited the sum of Rs.10 Lacs with the Prothonotary and Senior Master as agreed. The question therefore of hearing the Company Petition afresh on merits does not arise and the following order is passed :

- i. Mr.Simil Purohit, Advocate is appointed as an Arbitrator to decide the disputes between the parties.
- ii. Rest of the order dated 28th November, 2014 shall remain the same save and except that the learned Arbitrator shall endeavour to pass his Award within a period of six months from the date of this order.
- iii. The Company Application is accordingly disposed of.

(S.J. KATHAWALLA, J.)