

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
ARBITRATION APPLICATION NO. 83 OF 2015

Mall Enterprises

..... Applicant

VERSUS

Etco Denim Pvt. Ltd.

..... Respondent

Mr.Roshan D'souza, i/b. Ms.Sonali Kochar for the Applicant.

None for the Respondent.

CORAM : R.D. DHANUKA, J.

DATED : 22nd JULY, 2015

P.C.

This matter had appeared on board on 15th July, 2015 when Mr.Vipul Shukla, advocate appeared for the respondent. However, no Vakalatnama is filed on behalf of the respondent. None appeared for the respondent today when the matter was called out.

2. Learned counsel appearing for the applicant invited my attention to clause 37 of the Articles of Agreement annexed to the arbitration application and submits that the applicant has already nominated arbitrator. The respondent however has not appointed any arbitrator within 30 days in terms of clause 47(a). Learned counsel fairly pointed out that under clause 47(b) of the said agreement, if none of the parties fails to appoint its arbitrator in pursuance of sub-clause (a) within 30 days after receipt of the notice of the appointment of its arbitrator by another party, then Indian Council of Arbitration/President of the Institution of Engineers (India) shall appoint the arbitrator. He submits that the applicant has not approached the Indian Council of Arbitration or President of the Institution of Engineers (India)

for appointment of nominee arbitrator on behalf of the respondent. He states that the applicant would apply for appointment of nominee arbitrator on behalf of the respondent under clause 47(b) in terms of clause 47(b) and seeks liberty to withdraw this application. Statement is accepted.

3. Application is dismissed as withdrawn with liberty as prayed for. No order as to costs.

[R.D. DHANUKA, J.]