

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

APPEAL(L)NO. 187 OF 2014

IN

ARBITRATION PETITION NO.587 OF 2013

Zubair Ali

..Appellant

Vs.

Astha Commodities

..Respondent

Mr. Shekhar Jagtap a/w Meghna Gowalani,for the Appellant.

Mr. Simil Purohit a/w Mr. Faran M. Khan i/b M/s. Purohit and Co,for the Respondent.

**CORAM :- MOHIT S. SHAH, C.J. &
B. P. COLABAWALLA, J.**

DATE :- JANUARY 30, 2015.

P. C.:

The Appeal under Section 37 of the Arbitration and Conciliation Act, 1996 ("the Act") is directed against the order dated 2 December 2013 of the learned Single Judge of this Court dismissing the Appellant's Petition under Section 34 of the Act, by which the Appellant had impugned arbitral Award dated 3

December 2012.

2 Six members of the family (including the present Appellant) had filed separate claims in the Arbitral Tribunal constituted by the National Commodities Exchange under their Rules. Six Arbitral Awards were ordered by the Arbitral Tribunal. Only one of the Awards came to be challenged under Section 34 of the Act before the learned Single Judge. After hearing the learned counsel for the parties, learned Single Judge has dismissed the Petition and hence this Appeal.

3 The grievance before the Arbitrator was that, there was trading in the Appellant's accounts without his consent or knowledge by the officials of the Respondent / Trading Member due to which the Appellant suffered loss of Rs. 1,93,315/-. The Appellant wanted to recover this loss from the Respondent, and therefore, an Arbitration Application was made.

4 The Appellant's case was that, he had given amounts to Mr. Brijesh Vishwakarma, who as per the averments of the Appellant was a Sub-broker of the Respondent / Trading Member. The Arbitrator gave a finding in the Award in the case of Mr.

Shohab Abdulla's case (Arbitration Matter No. MC X/ Legal/ 859A/ 12), that Mr. Brijesh Vishwakarma was, in fact, the man of Mr. Shohab Abdulla and it was Mr. Shohab Abdulla who gave authority letter appointing Mr. Brijesh Vishwakarma as his authorized person giving him all authorities under the sun. The authority letter reveals that Mr. Brijesh Vishwakarma was invested with all the authority on his behalf to transact, place orders, give instructions, collect contract notes, bills, account statements, monies etc signifying very clearly that whatever Mr. Vishwakarma did was to be treated as if the act was done by Mr. Abdulla himself. An identical authority letter was also signed by the Appellant and his signature was not denied by him nor it was averred that signature was forged.

5 It is pertinent to note that only the Appellant challenged the Arbitral Award against him and the other five family members did not challenge the Award passed by the Arbitral Tribunal against them.

6 In the above background, the learned Single Judge declined to interfere with the Arbitral Award on the ground that the Arbitral Tribunal has rendered finding of fact and has accepted the explanation rendered by the Respondent as reasonable. The

learned Single Judge further held that finding of fact rendered by the Arbitral Tribunal is not perverse and no interference with the impugned Award was warranted under Section 34 of the Act.

7 On perusing the authority letter signed by the Appellant, we agree with the reasoning and finding of the learned Single Judge and find no merit in the Appeal. The Appeal is, therefore, summarily dismissed.

CHIEF JUSTICE

(B. P. COLABAWALLA, J.)