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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

ARBITRATION PETITION NO.1051 OF 2015

M/s.R.R. Kapoor, Engineer & Contractor, through its partner Mr.Rajesh R. Kapoor V/s. The Maharashtra State Electricity Transmission Co. Ltd. & Ors.	...Petitioner ...Respondents
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Mr.J.N. Singh with Ms.Prachi C. Dodke i/b M/s.JJ Associates for the
Petitioner.
Mr.Abhijeet A. Joshi with Mr.B. Reis for the Respondents.

CORAM : R.D. DHANUKA, J.
DATE : 22ND SEPTEMBER, 2015.

P.C. :-

1. By this petition filed under section 14 of the Arbitration & Conciliation Act, 1996 (for short "Arbitration Act") the petitioner seeks a declaration that sub clause (v), (ix) and (x) of clause 47.2 of the agreement dated 28th May, 2013 are illegal, null and void and not binding on the petitioner. The petitioner also seeks termination of the mandate of the arbitral tribunal and seeks an appointment of an independent and impartial arbitral tribunal. The petition is opposed by the learned counsel appearing for the respondent on the ground that the petition is not maintainable.

2. Learned counsel appearing for the petitioner states that clause 47.2 (ix) of Part "B" which provides that in case of the tribunal, comprising of three members any ruling or award shall be made by a

majority of members of tribunal and in the absence of such a majority, the views of the presiding arbitrator shall prevail is contrary to law and illegal. He submits that this Court this shall declare such clause as void. In my view, this Court cannot declare such clause as void under section 14 of the Arbitration Act. The prayer itself is misconceived and is accordingly rejected.

3. Insofar as the submission of learned counsel for the petitioner that the arbitral tribunal has not decided the application filed by the petitioner under section 16 of the Arbitration Act is concerned, learned counsel for the respondents states that the arbitral tribunal has already disposed of such application filed by the petitioner under section 16 of the Arbitration Act. Be that as it may, if the arbitral tribunal has not decided such application filed under section 16 of the Arbitration Act as canvassed by learned counsel for the petitioner, the arbitral tribunal shall dispose of such application expeditiously.

4. Merely based on allegation that application under section 16 is not decided, mandate of arbitral tribunal cannot be terminated.

5. The arbitration petition is disposed of in aforesaid terms. No order as to costs.

6. Parties as well as the arbitral tribunal to act on the authenticated copy of this order.

(R.D. DHANUKA, J.)

“Certified to be true and correct copy of original signed order.”