

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
ARBITRATION PETITION NO. 844 OF 2015

M/s.Sumer Builders Pvt. Ltd.

..... Petitioner

VERSUS

Narendra Gorani & Anr.

..... Respondents

Mr.P.K.Samdhani, Senior Advocate, a/w.Mr.Pradeep Sancheti, Senior Advocate,
i/b. Yasmin Bhansali & Co. for the Petitioner.

Mr.Hamed Kadiani, a/w. Mr.Yashpal Jain, Mr.Vijay Tulsian for Respondent No.1.

CORAM : R.D. DHANUKA, J.

DATED : 17th AUGUST, 2015

P.C.

By this petition filed under section 14(2) of the Arbitration and Conciliation Act, 1996 the petitioner seeks a declaration that the mandate of the learned arbitrator is terminated and seeks stay of the arbitral proceedings.

2. Learned counsel appearing for the respondent no.1 invited my attention to the order dated 10th October, 2013 passed by this court in Chamber Summons No. 720 of 2013 by which this court has revoked leave granted under clause 12 of the Letters Patent in favour of the petitioner in Arbitration Petition No.799 of 2013 which was filed by the petitioner under section 9 of the Arbitration and Conciliation Act, 1996.

3. My attention is also invited to the order passed by the Division Bench on 10th March, 2015 in Appeal No. 572 of 2013 passed against the petitioner herein

rejecting the said appeal and upholding the order passed by the learned Single Judge.

4. Against the said order passed by the Division Bench of this court, the petitioner has preferred Special Leave Petition [Special Leave to Appeal (C) No.11215 of 2015]. Supreme Court has granted leave and hearing is already concluded.

5. In view of the order passed by the learned Single Judge of this court, revoking the leave granted under section 12 of the Letters Patent and in view of the order passed by the Division Bench of this court upholding the order passed by the learned Single Judge, learned counsel appearing for the respondent no.1 submits that since this court has already taken a view that this court has no territorial jurisdiction to entertain the petition filed under section 9 filed by the petitioner and since the said two orders passed by this court not having been stayed by the Supreme Court, this petition filed under section 14(2) of the Arbitration and Conciliation Act, 1996 is not maintainable in this court.

6. This court had adjourned the present proceedings by an order dated 27th July, 2015 on the ground that the hearing is already concluded by the Supreme Court in the said Special Leave to Appeal (C) No.11215 of 2015. Mr.Samdhani, learned senior counsel for the petitioner states that Supreme Court has not pronounced the judgment in the said Special Leave to Appeal.

7. Since there is no stay granted by the Supreme Court of the order passed by the Division Bench of this court, I am respectfully bound by the said judgment of Division Bench of this court.

8. It is submitted by Mr.Samdhani, learned senior counsel for the petitioner that since Supreme Court has already granted leave in the said Special Leave to Appeal (C) No.11215 of 2015, order passed by the learned Single Judge of this Court and also Division Bench of this court holding that this court has no territorial jurisdiction to entertain the petition under section 9 of the Arbitration and Conciliation Act, 1996 would not amount to res-judicata against the petitioner.

9. In my view, Supreme Court has not granted stay of the order passed by the Division Bench. Merely because Supreme Court has granted leave, it would not amount to any automatic stay of the order passed by this court.

10. In my view, this petition filed under section 14(2) of the Arbitration and Conciliation Act, 1996 thus cannot be entertained by this court in view of the order passed by Division Bench of this court holding that this court has no jurisdiction.

11. Petition is accordingly dismissed as without jurisdiction. No order as to costs.

[R.D. DHANUKA, J.]