

vat

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

APPEAL No. 421 OF 2015
IN
ARBITRATION PETITION No. 1571 OF 2014

Renoir Consulting (India) Pvt. Ltd.

....Appellants
(Org. Petitioners)

Vs.

Pratul Kumar

...Respondent
(Org. respondent)

Mr.Navroz Seervai, Senior Counsel a/w. Mrs. Ferzana Behramkamdin
a/w. Bharati Bansali i/b. FZB & Associates for Appellants – Org.
Petitioners

Mr.D.D. Madon, Senior Counsel a/w. Ms. Aparna Suresh i/b. Sagar
Divekar for Respondent

CORAM : V. M. KANADE &
Dr. SHALINI PHANSALKAR-JOSHI, JJ.

DATE : SEPTEMBER 2, 2015

P.C. :

1. The Appellants are aggrieved by an order passed by the Learned Single Judge dated 5th May, 2015 in Arbitration Petition No. 1571 of 2014 filed by them under section 9 of the Arbitration and Conciliation Act, 1996. In the present appeal, the Appellants have prayed for interim injunction restraining the Respondent from

contacting any client and/or potential client of the Petitioners for a period of 12 months from 26th May, 2014. So far as this prayer is concerned, the period of 12 months had almost expired and, therefore, the Learned Single Judge was pleased to decline to grant interim relief as prayed in prayer clause (a).

2. The Petitioners have also prayed for a direction, directing the Respondent to hand over to the Petitioners all mass storage device including the said Toshiba Portable USB 3.0 hard disk drive on which proprietary information belonging to them was copied. Lastly, the Petitioners have prayed for an injunction restraining the Respondent from using any proprietary and confidential information belonging to the Petitioners Company.

3. The Learned Single Judge while dealing with the said prayers, came to the conclusion that in view of the statement made by the Respondent that the USB drive had got corrupted due to virus in the end of October 2014 and he had disposed it off, the question of granting prayer clause (b) did not arise. Lastly, so far as prayer clause (c) is concerned, the Learned Single Judge came to a conclusion that the Petitioners having failed to make out any case that the Respondent is actually in possession of any such document/file/ information, there

was no question of granting such relief to them.

4. Shri Seervai, learned Senior Counsel for the Appellants – Original Petitioners submits that there is sufficient material on record, on the basis of which it could be established that the Petitioners were in possession of document/file/ information which were not considered by the Learned Single Judge. Secondly, the finding recorded in respect of prayer clause (b) that the statement made by the Respondent in regard to particular USB drive, which was referred to in the petition, got corrupted due to a virus sometime in the end of October, 2014 and hence, the Respondent disposed it off and the Respondent has also stated that there was no copy retained by the Respondent of the USB hard drive and in view of this statement, the Learned Single Judge held that the said statement was by its very nature, not capable of being disputed and hence question of granting the relief in terms of prayer (b) did not arise. He submitted that the observations made by the Learned Single Judge, were in nature of final finding and these observations would come in the way of the Petitioners during the proceedings to be filed before the Arbitral Tribunal. It is submitted that therefore, it may be clarified that these observations are prima facie in nature.

5. Shri Madon, learned Senior Counsel has submitted that the Respondent has no objection if such clarification is made.

6. In our view, the Appeal can be conveniently disposed of by clarifying that all the observations made by the Learned Single Judge in the impugned order dated 5th May, 2015 regarding reliefs which are not granted in terms of prayer clause (b) and (c) are essentially prima facie in nature and it is always open for the parties to establish their case before the Arbitral Tribunal. The Arbitral Tribunal shall not be influenced by the observations made by the Learned Single Judge so far as prayer clauses (b) and (c) are concerned. All the contentions raised by both the parties are kept open.

7. It is clarified that since the observations made by the Learned Single Judge are prima facie in nature they will not come in the way of Arbitral proceedings which may be initiated by the parties. Hence, appeal is disposed of in the aforesaid terms.

[Dr. SHALINI PHANSALKAR-JOSHI, J.]

[V. M. KANADE, J.]

Vaishali Tikam

CERTIFICATE

Certified to be true and correct copy of the original signed Order.