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

ARBITRATION PETITION (LODGING) NO.1642 OF 2015

Home Care Retail Marts Pvt. Ltd. ...Petitioner

V/s.

Haresh N. Sanghavi ...Respondent

Mr.Rajiv Kumar, Senior Counsel with Mr.K.G. Munshi, Ms.Farzana Behramkamdin and Ms.Bharti Bhansali i/b FZB & Associates for the Petitioner.

Mr.S.U. Kamdar, Senior Counsel with Ms.Reena Salunke i/b Mr.Yadunath Chaudhari for the Respondent.

CORAM : R.D. DHANUKA, J.
DATE : 21ST AUGUST, 2015.

P.C. :-

1. By this petition filed under section 9 of the Arbitration & Conciliation Act, 1996 (for short "Arbitration Act"), the petitioner seeks the appointment of the Court Receiver and other interim measures. It is not in dispute that the relief claimed by the petitioner for specific performance of an agreement has been rejected by the learned arbitrator. This Court has, while admitting Arbitration Petition No.715 of 2014, filed by the petitioner under section 34 of the Arbitration Act impugning the said award has made it clear that in view of the learned

arbitrator rendering a final award rejecting the relief for specific performance *ad-interim* order passed by the learned arbitrator under section 17 of the Arbitration Act, duly modified by the Supreme Court stands vacated.

2. Mr.Kamdar, learned senior counsel appearing for the respondent invited my attention to a judgment of the Division Bench of this Court in case of **Dirk India Private Limited & Anr. vs. Maharashtra State Electricity Generation Company Limited & Anr., 2013 (7) Bom.C.R. 493** and submits that since the claim made by the petitioner has been rejected by the learned arbitrator, no interim measures can be granted by this Court under section 9 of the Arbitration Act. Learned senior counsel placed reliance on paragraphs 14 and 15 of the said judgment of the Division Bench.

3. I am respectfully bound by the judgment of the Division Bench of this Court in the case of **Dirk India Private Limited & Anr. vs. Maharashtra State Electricity Generation Company Limited & Anr.,** (supra) which, in my view, squarely applies to the facts of this case.

4. In my view, no interim measures can be granted in the present petition filed under section 9 of the Arbitration Act in view of the claim of the petitioner for specific performance having been rejected by the learned arbitrator.

5. The arbitration petition is accordingly dismissed. No order as to costs.

(R.D. DHANUKA, J.)