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

ARBITRATION PETITION NO.1625 OF 2014

Abhijit P. Gosavi	...Petitioner
V/s.	
M/s.Angel Broking Pvt. Ltd. & Ors.	...Respondents

Mr.Anoop Sharma for the Petitioner.
Mr.Deepak Dhane i/b Joby Mathew & Associates for Respondent No.1.

CORAM : R.D. DHANUKA, J.
DATE : 11TH MARCH, 2015.

P.C. :-

1. By this petition filed under section 34 of the Arbitration & Conciliation Act, 1996, the petitioner seeks to impugn the arbitral award dated 16th December, 2013, rejecting the claims made by the petitioner and also the arbitral award dated 17th July, 2013 passed by the appellate tribunal of the National Stock Exchange, rejecting the appeal filed by the petitioner.

2. The petitioner was the constituent of respondent no.1 and had entered into a member-client agreement, tripartite agreement between the stock broker, sub-broker and client. Under the said agreement, various transactions were carried out from time to time. The petitioner had deposited Rs.5.00 lakhs with respondent no.1.

3. It is the case of the petitioner that respondent no.1 had

issued various cheques though in favour of the petitioner but were routed through respondent No.3. The petitioner used to give some amounts to respondent No.3 by way of commission. Learned counsel for the petitioner submits that the learned arbitrator did not seek any explanation from respondent no.1 who were introduced by respondent no.3 about the transactions routed through respondent no.3.

4. Learned counsel invited my attention to the constituent agreement and would submit that though the petitioner had made it clear that no contract note should be sent to the petitioner through e-mail, the learned arbitrator has held that contract notes were delivered electronically.

5. A perusal of the award rendered by the learned arbitrator indicates that the learned arbitrator has disbelieved the story of the petitioner. There was no written communication of the petitioner with respondent no.1 of any alleged mal-practice by respondent no.2 or by respondent no.3. The petitioner did not prove before the learned arbitrator that the petitioner used to return the money in cash against various cheques received in the span of one year. The learned arbitrator has rendered a finding that the petitioner has received all the contract notes electronically and also sent SMS alerts by respondent no.1 on its registered mobile as additional precautionary measure. The learned arbitrator imposed costs of Rs.20,000/-.

6. In the appeal filed by the petitioner against the award of the lower arbitral tribunal dated 16th December, 2013, the Appellate Bench has confirmed the findings rendered by the learned arbitrator.

The Appellate Bench also rendered a finding that the petitioner had received e-mail contract notes / statements / SMS alerts and at no point of time had raised any objection in respect of any of the trades reflected in the statements. In my view, the finding of fact rendered by the learned arbitrator as well as by the Appellate Bench are rendered after considering the record produced by both the parties and are not perverse and thus no interference is warranted under section 34 of the Arbitration & Conciliation Act, 1996.

7. Insofar as the costs of Rs.20,000/- awarded by the learned arbitrator against the petitioner is concerned, learned counsel appearing for respondent no.1 fairly submits that he has no objection if that part of the award is set aside by this Court. The statement of learned counsel for respondent no.1 is accepted.

8. The arbitration petition is devoid of merits and is accordingly rejected except the portion of the award allowing cost of Rs.20,000/- awarded by the learned arbitrator.

There shall be no order as to costs.

(R.D. DHANUKA, J.)