

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH AT NAGPUR

WRIT PETITION NO.1781/2014

Tamralipta Co-operative Spinning Mills Ltd. and another
..Versus..
Smt. Seetadevi Jagadishprasad Chandak and another

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

CORAM : Z.A. HAQ, J.

DATE : 5.10.2015

The petition was adjourned at the behest of petitioners on 23rd June, 2015, 14th July, 2015, 4th August, 2015 and 19th August, 2015. Today none appears for the petitioners.

Heard Shri N.R. Saboo, advocate for the respondents.

The respondents have filed Special Civil Suit No.5/2013 praying for decree for recovery of amount of Rs.14,98,396/-along with interest.

The petitioners filed an application (Exh. No.12) under Section 8 of the Arbitration and Conciliation Act, 1996 contending that as per the order dated 30th November, 2010, the dispute has to be resolved by referring the parties to arbitration. The trial Court has rejected the application (Exh. No.12) by the impugned order. The petitioners being aggrieved by the order passed by the trial Court, have filed this

petition.

Shri Saboo, learned advocate for the respondents has pointed from paragraph No.2 of the plaint that the amount claimed by the respondents is for the transactions which had taken place between 12th January, 2010 and 31st March, 2010. It is submitted that the transactions between 12th January, 2010 and 31st March, 2010 are not covered by the order dated 30th November, 2010 and, therefore, the reliance on the terms and conditions incorporated in the order dated 30th November, 2010 for seeking the reference of the dispute to arbitration is misdirected. It is pointed out that the learned trial Judge has properly appreciated all these facts and has rightly rejected the application (Exh.12) filed by the petitioners.

The submissions made on behalf of the respondents are proper and based on the facts on the record. The dispute cannot be referred to arbitration relying on the terms and conditions incorporated in the order dated 30th November, 2010 as the amount claimed by the respondents is for the transactions which had taken earlier and which transactions are not related to the order dated 30th November, 2010.

I see no reason to interfere with the impugned order. The petition is dismissed. In the circumstances, the parties to bear their own costs.

JUDGE

Tambaskar.