

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.944 OF 2016**

1. Mr.Chandrakant P. Sanghvi
and ors.

..Petitioners

Vs

Mr.Anilkumar Phoolchand
Sanghvi and Ors.

.. Respondents

Mr.P.S.Dani, Senior Advocate a/w Mr. Sanjay Jain, Mr Dharam Juman, Ms Manik Joshi and Ms. Aditi Shukla i/b M/s Craford Bayley and Co, Advocates for petitioners.

Mr. Shiraz Rustomji, Senior Advocate i/b Dastur Kalambi and Associates for respondents no.1 to 3.

CORAM : R.G.KETKAR,J.
DATE : 02/02/2016

PC:

1. Heard Mr. P.S.Dani, learned senior counsel for the petitioners and Mr. Shiraz Rustomji, learned senior counsel for respondents no. 1 to 3 at length. On the oral application made by Mr. Dani, leave to delete respondents no. 4 to 6 is granted. Amendment shall be carried out forthwith.

2. Rule. M/s Dastur Kalamb and Associates waive service on behalf of respondents no.1 to 3. At the request and by consent of the parties, Rule is made returnable forthwith and Petition is taken up for final hearing.

3. By this Petition under Article 227 of the Constitution of India, the petitioners have challenged the judgment and order

dated 16.1.2016 passed by the learned 5th Ad-hoc District Judge, Pune below Exh.1 in Misc.Civil Application No.605 of 2015 (Arbitration Petition No.605 of 2015). By that order, the learned District Judge stayed the proceedings till further orders.

4. Mr.Dani submitted that the petitioners have instituted Arbitration Petition No.605 of 2015 in the District Court, Pune under section 14 of the Arbitration and Conciliation Act,1996. In view of the decision of this Court in the case of Sanjay Suryakant Mhaske Vs.Zilla Parishad, Jalna, Writ Petition No.2218 of 2015 decided by this Court, (Coram: Sunil P. Deshmukh, J.), dated 11.6.2015, the application filed by the petitioners is required to be heard by learned Principal District Judge. The learned District Judge was not justified in staying the proceedings and, instead, should have placed the matter before the learned Principal District Judge. In fact, the decision in the case of Sanjay Suryakant Mhaske was specifically relied and is referred by the learned District Judge.

5. Mr. Rustomji does not dispute this legal position.

6. In view thereof, the impugned order is liable to be set aside and the proceedings instituted by the petitioners, viz. Arbitration Petition No.605 of 2015, is required to be heard and decided by the learned Principal District Judge, Pune. Parties agree that they will appear before the learned Principal District Judge, Pune

on 5.2.2016. Mr. Dani assures that the petitioners will give notice to respondents no.4 to 6 about hearing of the matter on 5.2.2016.

7. In view thereof, Petition is disposed of as under:

(i) The impugned order is set aside and proceedings instituted by the petitioners, namely, Arbitration Petition No.605 of 2015 shall be heard and decided by the learned Principal District Judge, Pune.

(ii) Parties shall appear before the learned Principal District Judge on 5.2.2016. Learned Principal District Judge is requested to dispose of the proceedings as expeditiously as possible and preferably on or before 8.2.2016. All contentions of the parties on merits are expressly kept open.

(ii) Rule is made absolute in the aforesaid terms with no order as to costs.

(iii) Parties including learned Principal District Judge to act on the authenticated copy of this order.

(R.G.KETKAR, J.)