

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO.12809 OF 2016

Ihop Hospitality Management Pvt. Ltd.

Through Director

Chandrashekhar Shriram Pardeshi

: Petitioner.

versus

Sanjivane Motels and Hotels Pvt. Ltd.

Through Director

Sanjay Laxman Sonawane & anr.

: Respondents.

Mr. Milind M Sathaye for the Petitioner.

Mr. Hemant V Prabhulkar for the Respondent No.1.

Mr. S D Rayrikar AGP for the Respondent No.2.

CORAM : R. M. SAVANT, J.

DATE : 22nd November 2016

P.C.

1 The writ jurisdiction of this Court is invoked against the order dated 05/05/2016 passed by the learned Sole Arbitrator which order has been passed on the application filed by the Petitioner questioning the jurisdiction of the learned Arbitrator. The operative part of the said order, if one can say so, reads thus :-

“Being an arbitrator I have no inherent powers as enjoyed by a court of law. In view of the said circumstances, I am dismissing the application for dropping the proceedings on the ground being barred by law as discussed above but I am keeping the points open for passing appropriate award in accordance with law.”

Hence reading of the operative part discloses that the said issue of jurisdiction has been kept open by the learned Arbitrator.

2 The Petitioner aggrieved by the said order had filed an application under Section 34 of the Arbitration and Conciliation Act before the District Court, Nashik. The learned Principal District Judge, Nashik has by the order dated 22/08/2016 rejected the application in limine on the ground that the same is not maintainable. The learned counsel for the Petitioner submitted that the said order dated 22/08/2016 is not being challenged but what is under challenge is the order dated 05/05/2016 passed by the learned Arbitrator.

3 It was the submission of the learned counsel for the Petitioner that the mandate of Section 16(5) of the said Act has not been followed. In my view, the same would not make any difference in so far as interdiction at the inter locutory stage in the arbitration proceedings is concerned.

4 Having regard to Section 5 of the Arbitration and Conciliation Act, 1996 as also having regard to the Scheme comprised in Part I of the said Act, it would not be appropriate for this Court to interdict in the arbitration proceedings. Since the learned Arbitrator has kept the said issue open, it would be open for the Petitioner to challenge the order passed on the said issue if the

occasion so arises after the final Award is passed by the learned Arbitrator.

5 With the aforesaid clarification, the above Writ Petition is disposed
of.

[R.M.SAVANT, J]