

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

**ARBITRATION APPEAL NO.3 OF 2015
WITH
CIVIL APPLICATION NO.45 OF 2014
IN
ARBITRATION APPEAL NO.3 OF 2015**

Ms.Monica Ramesh Shah .. Appellant
Vs.
Motinagar Co-operative Housing
Society Limited & Ors. .. Respondents

**ALONG WITH
ARBITRATION APPEAL NO.4 OF 2015
WITH
CIVIL APPLICATION NO.43 OF 2014
IN
ARBITRATION APPEAL NO.4 OF 2015**

Masitia Capital Service Limited .. Appellant
Vs.
Motinagar Co-operative Housing
Society Limited & Ors. .. Respondents

Mr.Simil Purohit a/w Mr.Suraj Iyer i/by M/s.Ganesh & Co. for the
appellant.
Mr.Syprabh Jain a/w Mr.Ryan Mendes i/by M/s.Haresh Jagtiani &
Associates for the respondent no.1.
Mr.Kalpesh Nangi a/w Mr.Kalpesh Joshi for the respondent no.2.
Mr.Swapnil Bangur i/by Mr.Jayesh Vyas for the respondent no.3.

CORAM : R.D. DHANUKA, J.
DATE : 7th April 2016

P.C.

. Learned counsel appearing for the respondent no.1 (original claimant in the arbitral proceedings), on instructions, states that the respondent no.1 would enforce the order passed by the learned arbitrator

only against the parties to the arbitral proceedings and not against the appellant. Statement is accepted.

2. It is made clear that if the appellant files any proceedings against the respondents to the arbitral proceedings, the same shall be decided on its own merits without being influenced by the observations made by the learned arbitrator in the impugned award. It is also made clear that all the contentions of all the parties to the present proceedings are kept open.

3. It is noticed that though the learned arbitrator has suspended the arbitral proceedings by an order dated 20th June 2015 in view of the original claimant not paying the fees of the learned arbitrator and has terminated the proceedings under Section 38(2) of the Arbitration and Conciliation Act, 1996 by an order dated 14th January 2016, the original claimant (respondent no.1 herein) has not taken any steps to impugn the order dated 14th January 2016 passed by the learned arbitrator. It is made clear that if no steps are taken by the respondent no.1 herein to apply for setting aside the order dated 14th January 2016 passed by the learned arbitrator within four weeks from today, the interim order passed by the learned arbitrator shall stand vacated without further reference to the Court.

4. Both the appeals are disposed of in aforesaid terms. No order as to costs. In view of disposal of the appeals, civil applications do not survive and are disposed of accordingly.

R.D. DHANUKA, J.