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

ARBITRATION PETITION NO.912 OF 2016

Hiraman Baburao Thakur .... Petitioner

Vs.

Kotak Securities Limited .... Respondent

Mr. Rajesh Khandelwal i/by Juris Link, Advocate for the Petitioner.

Mr. V.K. Ramabhadran, Senior Advocate a/w Subra Karmakar i/by Subra Karmakar, Advocate for the Respondent.

Coram : **Smt. R.P. SondurBaldota, J.**
Date : 26th October, 2016

P.C.

1 Mr. V.K. Ramabhadran undertakes to get appearance for the respondent filed within a week from today.

2 The petitioner challenges the order dtd. 8th August, 2013, by which the sole Arbitrator dismissed the claim of the petitioner for recovery of Rs.8,97,814.61 ps. from the respondent.

3 The petitioner is the investor. He had entered into the agreement with the respondent for trading into shares. According to him. he is a farmer and an uneducated person. He does not

understand English. Some time in October, 2009, he was approached by a representative of the respondent who promised him of good profits by trading into shares and assured that the petitioner would not lose any of the money. He convinced the petitioner to enter into the agreement with the respondent. He obtained signatures of the petitioner on blank forms and advised the petitioner to open a bank account with Kotak Mahindra Bank. The petitioner claims to have categorically told the representative of the respondent that he does not know anything about the stock market. All that he understood was that the price of NIFTY Futures and Equity Shares moves up and down. Whenever it goes down, the petitioner should buy and whenever it goes up the petitioner should sell. He was introduced to a dealer by name Pradnya Patel, who used to call the petitioner and discuss the market. Though he did not understand what was told to him, he went by her suggestion. According to the petitioner the only means of communication between him and the respondent was through telephone. This claim is made despite the fact that there was an email account in the name of the petitioner and communications had been sent by emails. The communications were also sent by SMSs, which had not been disclosed by the petitioner. It is the further case of the petitioner that in/or around November/ December, 2009, he realised that he had incurred loss of Rs.2.00 Lacs on account of some trades by Pradnya Patel. He alleges that these trades were without his knowledge. The petitioner therefore called Pradnya Patel and asked her not to trade in his account without his instructions. However, the respondent continued to trade into his account causing loss of Rs.8,97,000/-. The respondent then sold the shares of the petitioner given by way of security and settled the account.

4 All these above claims of the petitioner were found absolutely vague by the learned Arbitrator. Even before this court, Mr. Khandelwal, the learned advocate appearing for the petitioner is unable to state details of the allegations. The petitioner does not disclose the date and the manner in which he learnt about the loss of Rs.8,97,000/- to him, the settlement of that loss by sale of his shares, the details of the shares sold etc.

5 Mr. Ramabhadran, the learned Senior Advocate for the respondent submits that the respondent had been regularly in communication with the petitioner by four modes i.e. by email, by SMSs, by telephone calls and by forwarding the contract notes through courier service, and that the respondent had produced the necessary material to support the fact. In that circumstance, the petitioner's claim that he was not aware of any of the trading in his account was not believed by the learned Arbitrator. There can be no infirmity with this view taken by the learned Arbitrator. It is a probable view in the facts and circumstances of the case. Hence, the petition is dismissed.

(Smt. R.P. SondurBaldota, J)