

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
NOTICE OF MOTION NO. 1794 OF 2015

IN

ARBITRATION APPLICATION (L) NO. 1877 OF 2014

Tata AIA Life Insurance Company Ltd. ... Applicant

Versus

Mr. Kishor Zaverchand Malde & Ors. ... Respondents

Mr. Vishal Tambat for the Applicant.

Mr. John Victor, Assistant Vice President (Legal) of the Applicant, present in person.

CORAM : S.J. KATHAWALLA, J.

DATED : 20TH JANUARY, 2016

P.C.:

1. Perused the above Notice of Motion and the Affidavit in support thereto. By the above Notice of Motion, the Applicant seeks the following reliefs :

“(a) That the order dated 17th February, 2015 passed by the learned Prothonotary and Senior Master rejecting the Arbitration Application be set aside and the Application be restored.

“(b) That the time to remove objection and get the Application numbered be extended by two weeks or such time as this Hon'ble Court deems fit and proper”.

2. The above Arbitration Application was filed under Section 11 of the Arbitration and Conciliation Act, 1996 (the Act) on 2nd December, 2014. On 17th February, 2015 the Prothonotary and Senior Master granted time to the Advocate for the Applicant upto 17th March, 2015 to the remove the office objections. The Prothonotary and Senior Master also clarified in his order that if the said objections

are not removed on or before 17th March, 2015, the Arbitration Application shall stand rejected under O.S. Rule 986.

3. The Advocate for the Applicant again failed and neglected to remove office objections on or before 17th March, 2015, because of which the above Arbitration Application stood dismissed. However, on 23rd March, 2015, the Advocate for the Applicant went to the concerned department and made an endorsement on the docket of the Affidavit in support of the Arbitration Application that “*all objections complied with*”. The Advocate for the Applicant ought to have been aware that after the dismissal of the Arbitration Application, the question of him removing office objections does not arise unless the Arbitration Application is restored to file.

4. Thereafter, on 26th October, 2015, the Advocate for the Applicant filed the above Notice of Motion seeking restoration of the Arbitration Application i.e. seven months after the Arbitration Application was dismissed. The reasons set out in the Affidavit in support of the Notice of Motion seeking restoration of the Arbitration Application are absolutely unsatisfactory. The Notice of Motion therefore deserves to be dismissed. However, since the Arbitration Application is dismissed only because of the negligence on the part of the Advocate, if the same is not restored, the Applicant Company will suffer grave harm and prejudice. Keeping this fact in mind, the Notice of Motion is allowed in terms of prayer Clauses (a) and (b). Objections to be removed on or before 9th February, 2016. Office to forward a copy of this order to the Chairman of Tata AIA Life Insurance Company to look into the matter and take appropriate steps to ensure that such lapses do not recur in

future.

5. The Notice of Motion is accordingly disposed of.

(S.J.KATHAWALLA, J.)