

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
NOTICE OF MOTION NO.1969 OF 2015
IN
ARBITRATION PETITION (L) NO.58 OF 2011**

Mr. Vijay V. Angne

....Applicant/Petitioner

V/s.

The Shamrao Vitthal Co-op. Bank Ltd. & Ors.Respondents

Mr. M.S. Bhandari i/b. Ms. Pranjali Bhandari for the applicant/petitioner.

Ms. Priyanka Bhadrashete i/b. N.N. Bhadrashete for the respondent no.1.

**CORAM : K.R.SHRIRAM,J
(IN CHAMBER)**

DATE : 1st SEPTEMBER, 2016

P.C.:-

1 At the outset, leave to amend the prayer clause – (a) of the notice of motion is granted. The amendment to be carried out forthwith.

2 This notice of motion was listed on board today but in view of the averments contained in paragraph 11 read with paragraph 39 of the affidavit in support of the notice of motion, I directed the earlier advocate for the petitioner to remain present in court. At the request of the earlier advocate and the present advocate for the petitioner, the matter was kept in chamber.

3 The earlier advocate for the petitioner clarified that the amount paid as mentioned in paragraph 11 was correct but only Rs.25,000/- of that amount was towards court fees and the remaining was for outstanding fees and expenses in connection with services rendered in arbitration proceedings as well as proceedings before the D.R.T. and that was the understanding with the client. The earlier advocate also stated that in accordance with the understanding she paid the appropriate court fees.

4 I have also considered rest of the grounds stated in the affidavit in support for setting aside the order dated 29th November, 2011 passed by the Prothonotary and Senior Master, High Court, Bombay by which the petition came to be dismissed on 14th December, 2011.

5 Ms. Priyanka Bhadrashete, counsel for the respondent no.1 strongly opposes and submitted that the notice of motion was taken out after a gross delay and therefore, should not be entertained.

6 Have heard the counsels and also gone through the averments contained in the affidavit in support. The respondent no.1 also has not filed any affidavit in reply to the said notice of motion. At the same time, considering the averments contained in the affidavit

in support and the fact that the petitioner is a senior citizen and heart patient, who has undergone bypass surgery, I am exercising my discretion to condone the delay and set aside the order dismissing the arbitration petition.

7 The arbitration petition is restored to file. The notice of motion accordingly stands disposed.

8 The petitioner is directed to pay the balance court fees and have all the office objections removed and get the arbitration petition numbered within two weeks from today, failing which the petition will stand dismissed without further reference to the court.

(K.R.SHRIRAM,J)