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

ARBITRATION PETITION NO.278 OF 2016

Shailesh J. Jogani	...Appellant
V/s.	
Rajesh J. Jogani	...Respondent

Mr.Aditya Shiralkar with Mr.Jayesh Mistry i/b RMG Law Associates
for the Appellant.

Mr.Karl Shroff with Ms.Sheetal Parkash and Ms.K.R. Davierwala i/b
M/s.Mulla & Mulla & C. B. & C. for the Respondent.

CORAM : R.D. DHANUKA, J.
DATE : 16TH JUNE, 2016.

P.C. :-

1. By this appeal filed under section 37 of the Arbitration & Conciliation Act, 1996 (for short "Arbitration Act") the appellant (original respondent) in the arbitration petition has impugned the order dated 11th August, 2015 passed by the leaned arbitrator under section 17 of the Arbitration Act rejecting the application of the appellant herein to de-freeze the bank account of the partnership firm.

2. The respondent had issued a notice for dissolution of the firm as far back as on 8th September, 2013. The bank account is freezed at the instance of the respondent since 10th September, 2013.

The freezing of the account does not bar deposit of the amount in the said account. The impugned order is passed by the learned arbitrator on 11th August, 2015.

3. Mr. Shiralkar, the learned counsel appearing for the appellant submits that the admitted liabilities of the suit firm shall be allowed to be discharged by de-freezing the account of the firm. Mr. Shroff, the learned counsel appearing for the respondent submits that there are no such admitted liabilities as canvassed by the learned counsel for the appellant. He submits that the cross-examination of the witness examined by the respondent is going on before the learned arbitrator.

4. A perusal of the order passed by the learned arbitrator indicates that the account was freezed as far back as in the month of September, 2013. The appellant had prayed for defreezing of the bank account under section 17 of the Arbitration Act also against a third party, which is not permissible. The learned arbitrator has rightly placed reliance on the judgment of the Supreme Court in case of **MD, Army Welfare Housing Organisation vs. Sumangal Services (P) Ltd., (2004) 9 SCC 619.**

5. Admittedly the cross-examination of the respondent's witness is going on in the arbitral proceedings. The account has been freezed since September, 2013. The impugned order passed by the

learned arbitrator is dated 11th August, 2015. No ad-interim relief is granted by this Court since then.

6. Whether the firm has to pay any amount to any one or not, no finding thereon can be recorded by this Court at this stage. The account of the partnership will have to be drawn up under section 48 of the Indian Partnership Act, 1932. No interference with the impugned order is thus warranted. The appeal is devoid of merits and is accordingly dismissed. No order as to costs.

(R.D. DHANUKA, J.)