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

ARBITRATION PETITION NO.339 OF 2016

Sheela A. Varma	...Petitioner
V/s.	
Chandrashekhar T. Marla & Anr.	...Respondents

Mr.Vaibhav Ugle for the Petitioner.

Mr.K.D. Shukla for the Respondents.

CORAM : R.D. DHANUKA, J.
DATE : 9TH MARCH, 2016.

P.C. :-

1. By this petition filed under section 27 of the Arbitration & Conciliation Act, 1996 (for short "the said Act"), the petitioner seeks an order and direction to issue witness summons to the Manager or any officer of Citizen Credit Co-operative Bank Limited to present before the learned arbitrator Mr.Vishal Kanade at the address mentioned in prayer clause (a) of the petition on the date of hearing and to produce the statement of account in respect of account no.1052 in Citizen Credit Co-operative Bank Limited, Creado Co-operative Housing Society, Ceaser Road, Amboli (West), Mumbai – 400 058.
2. There is no dispute that that the proceedings before the

learned arbitrator is in respect of the partnership dispute between the parties. It is the case of the petitioner that the respondents have opened an account with the said Citizen Credit Co-operative Bank Limited in Amboli (West) Branch in the name of the firm and has siphoned off the amounts in the said account without the consent and knowledge of the petitioner. The petitioner had applied for issuance of witness summons upon the bank before the learned arbitrator. The learned arbitrator passed an order dated 15th November, 2015 holding that he was not empowered to issue witness summons to a third party and made it clear that the petitioner (original claimant) shall be entitled to make an application under section 27 of the said Act before this Court if so advised.

3. Learned counsel for the respondents states that the respondents opened the said bank account in the name of the partnership firm but the said account is opened as a proprietor of the respondent no.1 and is operated as a sole proprietor thereof. He submits that the said bank account was required to be opened in view of the petitioner not co-operating with the respondent no.1 in operating the bank account of the said firm with the same bank.

4. Since the dispute is between the partners *inter-se* and there are allegations made by the petitioner against the respondent no.1 of siphoning off the amount in the new bank account opened in

the name of the respondent no.1 by the respondent no.1, production of the bank statement of the bank account opened by the respondent no.1 in the name of the said firm would be necessary to be produced before the learned arbitrator for proper adjudication of the dispute.

5. The petitioner, in my view, has made out a case for issuance of the witness summons to the Manager of the Citizen Credit Co-operative Bank Limited having the address at Amboli (West) Branch more particularly described in prayer clause (a). It is made clear that if the Branch Manager himself is not able to remain present and to produce the bank statement of account, he may depute one of his officer to produce the statement of account in respect of account number mentioned in prayer clause (a) of the petition on the next date before the learned arbitrator at the addressed mentioned in prayer clause (a) of the petition and subsequent dates if so required. The petitioner is directed to convey the next date of hearing to the Prothonotary & Senior Master of this Court for issuance of witness summons in terms of prayer clause (a) of the arbitration petition.

6. The arbitration petition is made absolute in terms of prayer clause (a). The Branch Manager or any officer of the Citizen Credit Co-operative Bank Limited, Amboli (West) Branch shall comply with the witness summons for production of the documents as prayed. It

is made clear that none of the contentions on merits of the claims made by the petitioner before the learned arbitrator and rival contentions raised by the respondents are adjudicated upon in this proceedings. No order as to costs.

(R.D. DHANUKA, J.)