

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
NAGPUR BENCH, AT NAGPUR.**

WRIT PETITION NO.236 OF 2016

(Bhaskar s/o Hiranman Titre ..vs.. Munnalal s/o Surajlal Gupta and another)

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

CORAM : Z.A. HAQ, J.

DATED : 08-07-2016

Heard Shri M.P. Kariya, Advocate for the petitioner and Shri Amit Khare, Advocate for the respondent No.1.

2. This Court passed an order in Misc. Civil Application No.559/2015 on 26-08-2015 and appointed an Arbitrator to resolve the dispute between the parties. As per the order, the learned Arbitrator has entered the office. The respondent No.1 has submitted the statement of his claim. The petitioner has filed his written statement. The learned Arbitrator has framed the issues and the respondent No.1 has submitted affidavit in lieu of examination-in-chief. In the arbitration proceedings, the petitioner filed an application praying that the fees and charges be restructured. The submission on behalf of the petitioner is that he is not in a position to pay the fees and bear the expenses of the arbitration proceedings.

3. The learned Advocate for the respondent No.1

has pointed out from the order dated 02-02-2016 the observations of the learned Arbitrator that the petitioner can exercise the option and pay the arbitration fees and costs as per Fourth Schedule of the Arbitration and Conciliation Act, 1996. The learned Arbitrator has recorded that if the petitioner fails to exercise the above option, proviso below sub-section (2) of Section 38 of the Arbitration and Conciliation Act, 1996 may be resorted to.

4. I do not find any error in exercise of jurisdiction by the learned Arbitrator. It would not be appropriate for this Court to interfere at this stage.

The petition is dismissed. The parties to bear their own costs.

JUDGE

adgokar