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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

REVIEW PETITION (LODGING) NO.8550 OF 2017
IN
ARBITRATION PETITION NO.8 OF 2016

Atul Pharma Agency & Ors.

...Review
...Petitioners

V/s.

Atul H. Godambe

...Respondent

Mr.Shivram V. Para for the Review Petitioners.

Mr.Vishwasrao with Mr.Greta Raymond Rosario Monteiro for the
Respondent.

CORAM : R.D. DHANUKA, J.

DATE : 5TH MAY, 2017.

P.C. :-

1. By this review petition, the review petitioners seek recall of the order dated 19th December, 2016 passed by this Court under section 11(6) of the Arbitration & Conciliation Act, 1996.

2. Learned counsel for the review petitioners does not dispute that the papers and proceedings in Arbitration Petition No.8 of 2016 were served upon his clients. He however, remained absent before this Court on 25th November, 2016 when this Court proposed to appoint Shri Anupam J. Dholakia, former Charity Commissioner and former Principal District & Sessions Judge as a sole arbitrator

and requested the learned prospective arbitrator to file a statement of disclosure under section 12(1) read with section 11(8) of the Arbitration & Conciliation Act, 1996. The learned prospective arbitrator thereafter filed a statement of disclosure on 19th December, 2016. The review petitioners were absent on that date also before this Court.

3. By an order dated 19th December, 2016 this Court appointed Shri Anupam J. Dholakia, former Charity Commissioner and former Principal District & Sessions Judge as a sole arbitrator.

4. The learned arbitrator issued the notices to both the parties. The next meeting before the learned arbitrator is on 12th May, 2017.

5. Learned counsel appearing for the review petitioners states that though the papers and proceedings in the said arbitration petition were served upon his clients by the respondent's advocate, he was not taken in confidence by the learned advocate for the respondent when the said order dated 19th December, 2016 was passed by this Court. He submits that the office of this Court had also not sent any SMS to the learned advocate informing about the date of hearing. He does not dispute that the learned counsel for the respondent herein (original petitioner) has informed the learned advocate on record about today's date of hearing.

6. Since the review petitioners chose to remain absent despite having been served with the papers and proceedings and notice, this Court after considering the merits of the matter has already appointed Shri Anupam J. Dholakia, former Charity Commissioner and former Principal District & Sessions Judge as a sole arbitrator. The learned arbitrator has already fixed a meeting.

7. In my view once the review petitioners were served with the papers and proceedings and notice, even if the office of this Court has not sent any SMS to the learned advocate representing the review petitioners, they cannot remain absent on that ground. The SMS is being sent by the office for the purpose of convenience of the advocates on record and is not mandatory or condition precedent for the purpose of securing the presence of advocates and litigants.

8. No case is made out for recall of the order dated 19th December, 2016. The review petition is thoroughly misconceived and is dismissed with costs quantified at Rs.25,000/- which shall be paid by the review petitioners to the original petitioner within one week from today.

9. The parties are directed to appear before the learned arbitrator on the next date, without fail.

(R.D. DHANUKA, J.)