

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

**COMMERCIAL ARBITRATION PETITION NO. 365 OF 2017
WITH
NOTICE OF MOTION NO. 419 OF 2017
IN
COMMERCIAL ARBITRATION PETITION NO. 365 OF 2017**

**ALONG WITH
ARBITRATION PETITION NO. 446 OF 2017
WITH
NOTICE OF MOTION NO. 1276 OF 2017
IN
ARBITRATION PETITION NO. 446 OF 2017**

Rahi Enterprises & Ors.

.. Petitioners

v/s.

L and T Finance Ltd.

.. Respondent

Mr. V.S. Kapse i/b Sachin Shetye for the petitioners

Ms. Shakuntala Joshi i/b S.I. Joshi & Co. for the respondent

**CORAM : M.S. SANKLECHA, J.
DATED : 29th NOVEMBER, 2017**

PC.

1. Both these petitions filed under Section 34 of the Arbitration and Conciliation Act, 1996 (the Act) challenge two separate Awards both dated 24th November, 2014. Thus, the two petitions.

2. Mr. Kapse, learned Counsel appearing for the petitioners

submits that both the Awards dated 24th November, 2014 are in breach of principles of natural justice and would fall foul of Section 34(2)(a)(iiii) and Section 34(2)(b)(ii) of the Act. This for the reason that at the hearing held before the Arbitral Tribunal on 30th October, 2014, the petitioner who was the respondent before the Arbitrator, sought time as the advocate appearing for him had informed him on 30th October, 2014 itself that he has been empaneled as an advocate for the respondents i.e. claimants before the Tribunal. Therefore, would not be able to appear for the petitioner herein. However, time sought by the petitioner was refused while the claimants i.e. respondents herein were heard. Further, the award records that the Arbitrator agreed to withhold passing of the Award for two weeks to enable the petitioner herein to approach the respondent (claimants herein) for settlement of the dispute. Thus, total absence of judicial approach. In the above facts, it is submitted a short adjournment would have served the interest of justice.

3. Further, Mr. Kapse, learned Counsel appearing for the petitioner, on instructions, states that the petitioner is ready to

submit himself to the arbitration proceedings before the same Arbitrator and also offers to share 50% fees payable to the Arbitrator. He further states that he will co-operate in the early disposal of the Arbitration proceedings.

4. In view of the statement made by Mr. Kapse, on instructions of the petitioner, Ms. Joshi, learned Counsel appearing for the respondents does not wish to contest the petition.

5. Accordingly, the impugned Awards dated 24th November, 2014 in both the petitions are quashed and set aside.

6. In the above view, the Notices of Motion are also disposed of as infructuous.

(M.S. SANKLECHA, J.)