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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

ARBITRATION PETITION NO.1016 OF 2016

MMTC Ltd.

...Petitioner

vs

M/s. Global Tradex Ltd.

...Respondent

.....

Mr. R.V. Govilkar, i/b. Nelson Rajajn P.V., for the Petitioner.

Mr. Devashish Jagirdar, i/b. Jayakar & Partners, for the Respondent.

.....

CORAM : S.C. GUPTE, J.

DATED: JUNE 7, 2017

P.C.:

. Heard learned Counsel for the parties.

2. This petition seeks substitution of an Arbitrator, who has already entered upon reference. The application is on a twin footing of there being inordinate delay in adjudicating upon the disputes between the parties and secondly on the ground that the Arbitrator has unilaterally and arbitrarily increased his fees from Rs.50,000/- originally fixed, to Rs.1 lakh. As far as the first ground is concerned, the Arbitrator has, in his communication dated 9 January 2016, explained the chronology of events, which led to the delay in adjudication of the disputes. He has set out what transpired at each of the scheduled dates of hearing. This chronology adequately explains the delay, which ensued. The Arbitrator cannot be held responsible of this delay. Insofar as the

second ground is concerned, this ground does not fall within Section 14 of the Arbitration and Conciliation Act, 1996. It cannot be said that as a result of arbitrary increase in the fees, the Arbitrator has become *de jure* or *de facto* unable to perform his functions or for other reasons fails to act without undue delay. These are the only grounds available for substitution of an Arbitrator under Section 14 of the Arbitration and Conciliator Act, 1996.

3. There is, accordingly, no merit in the petition. The petition is dismissed.

(S.C. GUPTE, J.)