

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

**APPEAL NO. 273 OF 2017
IN
ARBITRATION PETITION NO. 193 OF 2017
IN
ARBITRATION CASE NO. A-5/2015-16
WITH
NOTICE OF MOTION NO. 1420 OF 2017**

M/s. Samrat Exports ... Appellant

Versus

M/s. Balgopal Textiles Pvt. Ltd. And another ... Respondents

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Mr. P.D. Sampat with Mr. Vilas A. Jadhav for Appellant.

Mr. Suprabh Jain i/b Mr. Yashpal Jain for Respondent No.1.

Ms. Amita Bakshi i/b Mr. Anil Agarwal for Respondent No.2.

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**CORAM : NARESH H. PATIL AND
R. G. KETKER, JJ.**

DATE : 11th OCTOBER, 2017.

P. C. :

1. The appellant filed a Petition under Section 34 of the Arbitration and Conciliation Act, 1996 (for short 'the Act'), seeking relief for getting the arbitration proceedings quashed as void, perverse and without jurisdiction.

2. By a communication dated 13th August, 2015, the appellant had raised issue of jurisdiction before the Arbitrator, under Section 16 of the Act.

3. By an order dated 4th **January, 2016** the Arbitrator rejected the objection raised by the Appellant and decided to proceed in the matter.

4. Learned Counsel appearing for the appellant submits that in the present case, there was no Arbitrable dispute. The Arbitrator does not get jurisdiction to continue with the proceedings of Arbitration. The Appellant construed the order passed by the Arbitrator under Section 16 of the Act as an interim award and filed a petition under Section 34 of the Act.

5. Learned Counsel places reliance in support of his submission on the judgment in the case of ***Home Care Retail Marts Private Limited vs. Haresh N. Snghavi*** reported in ***2016 SCC OnLine Bom 5027***.

6. Learned Counsel appearing for the respondents submit that in view of the provisions of Section 16 of the Act, the Appellant is

not entitled to challenge the order passed by the Arbitrator under Section 34 of the Act and an appeal under Section 37 of the Act. Learned Counsel for the respondents place reliance on the Judgment of the Supreme Court in the case of ***Vasudev Dhanjibhai Modi vs. Rajabhai Abdul Rehman and others*** reported in ***1970 AIR 1475***.

7. Perused the record placed before us and the orders passed by the Arbitrator and the learned Single Judge. We find that the order passed by the learned Single Judge is a well reasoned order. We do not notice any perversity in the impugned order. There is no merit in the Appeal. In view of the provisions of law and the Judgment cited, the present Appeal is not maintainable. The Appeal is dismissed as not maintainable.

8. At this stage, learned Counsel for the Appellant prays for staying the operation of this order for a period of four weeks. His request is objected to by the learned Counsel for the Respondents. In the facts, request made by learned Counsel for the Appellant is rejected.

(R. G. KETKAR, J.)

(NARESH H. PATIL, J.)