

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
ARBITRATION PETITION NO. 1354 OF 2015
WITH
NOTICE OF MOTION NO. 1786 OF 2015**

Mr. Imitiaz Sharafali Furniturewala ...Petitioner

Versus

M/s. Adamji Mahomedally and Ors ...Respondents

Mr. Prakash V. Shinde I/b. MDP and Partners for the Petitioner.

**CORAM: G.S. KULKARNI, J.
DATED: 28th August, 2017**

PC:-

1. Heard learned counsel for the petitioner. A perusal of the record indicates that by an order dated 13/07/2015, this Court had granted ad-interim reliefs in favour of the petitioner in the nature of an injunction directing the parties from creating any third party rights in respect of the immovable properties described in Paragraph 3(c) of the petition read with Exhibit-B to the petition, until further orders. The petitioner and respondents were also restrained from creating any liability on the suit firm. Accordingly the hearing of this petition was adjourned for the

respondents to file a reply. A Reply affidavit was filed on behalf of the respondents.

2. By further order dated 05/05/2016, it was recorded that the order dated 18/02/2016 was by consent changed only to the extent of substituting the learned arbitrator as per the order dated 04/04/2016. It was further directed that the notice of motion as filed in the present petition (Notice of Motion No. 312 of 2016) shall be treated as the petition under Section 17 of the Arbitration and Conciliation Act, 1996 and shall be disposed of by the learned arbitrator within a period of two weeks.

3. On the above background, this petition is pending hearing. Learned counsel for the petitioner would point out that the proceedings before the learned arbitrator are still in progress. Learned counsel for the petitioner would also agree that this petition can be disposed of by continuing the reliefs which are granted in the order dated 13/07/2015 to operate till the arbitration proceedings are concluded. The respondents are not appearing, when the petition is called out. The course of action which is being suggested on behalf of the petitioner is also fair and would not cause any prejudice to the respondents, more

particularly when the order dated 13/07/2015 is in operation till date.

4. Accordingly, the petition is disposed of by permitting the reliefs as granted in the order dated 13/07/2015 and as specifically recorded in Paragraph 10 and 11 of the order to operate till the conclusion of the arbitration proceedings. Ordered accordingly.

5. All contentions of the parties on the merits of the matter are expressly kept open. No costs.

6. Notice of Motion also would not survive and is disposed of.

(G.S. Kulkarni, J.)