

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

ARBITRATION PETITION NO. 930 OF 2012

Harishbhai R. Tilak

.. Petitioner

Vs.

K. Kalidas & Anr.

.. Respondents

Mr.M.D.Mali i/b M.D. Mali & Co. for petitioner.

None for respondents.

CORAM : K.R.SHRIRAM, J.

DATE : 13TH SEPTEMBER 2017

P.C.

1 The petition is filed challenging an Award dated 13th March 2012 under Section 34(2)(ii) of the Arbitration and Conciliation Act, 1996.

2 Respondents had filed a claim under Arbitration Rules of Bharat Merchant Chamber claiming a sum of Rs.61,40,782/- from petitioner. It was the case of respondent no.1 that respondent no.1 had supplied various types of cloth to petitioner and petitioner did not pay for the various cloth quantities supplied. According to respondent no.1, petitioner always paid by cheque after receipt of cloth.

3 At the outset, it should be noted that though an Advocate had appeared for respondent no.1 before this Court at the time of hearing of notice of motion No.2337 of 2016 which came to be disposed by an order dated 2nd October 2016, nobody has filed Vakalatnama or is present today

for respondents.

4 There is nothing on record to indicate that petitioner had agreed for arbitration under the rules of Bharat Merchant Chamber. Moreover, in the Award there are no reasons whatsoever given by the Arbitral Tribunal. Petitioner had not participated in the arbitration proceedings except by writing of letter to the tribunal that respondent no.1 always demanded cheques in advance and delivered goods only against those cheques and therefore nothing was payable.

5 The Arbitrators have, in their Award, only stated that it was the case of respondent no.1 that petitioner only paid after receipt of the goods and the Arbitral Tribunal having gone through the documents pertaining to the dispute and scrutinized statement of accounts, they have come to a conclusion that cloth was sold and delivered to petitioner and hence petitioner was liable and responsible to make payments.

6 In my view, the Arbitrators have not given any reason. Simply saying they have gone through the records and have come to conclusion that petitioner was liable is not enough. The Arbitrators should have spelt out the evidence and analysed the same in the Award. The Arbitrators have not even

explained and dealt with each of the invoices and other challans. In the circumstances, the Award requires to be set aside and is hereby set aside.

Ordered accordingly.

Petition disposed.

(K.R. SHRIRAM, J.)