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

COMMERCIAL ARBITRATION PETITION NO.92 OF 2016

Mrg Auto Pvt. Ltd. & Ors.	...Petitioners
V/s.	
India Infoline Finance Ltd. & Ors.	...Respondents

Mr.B.K. Barve with Mr.Sandeep Barve i/b B.V. Barve & Co. for the
Petitioners.

Mr.Smit Shah i/b Shrivastav & Co. for the Respondents.

CORAM : R.D. DHANUKA, J.
DATE : 3RD NOVEMBER, 2017.

P.C. :-

1. By this petition filed under section 14(2) of the Arbitration & Conciliation Act, 1996, the petitioners have applied for determination of the controversy whether the appointment of the respondent no.3 has become *de-jeru* and *de-facto* for want of termination of mandate of the learned arbitrator.

2. Learned counsel for the petitioners placed reliance on clause 28.2 of the agreement, which provides that the parties unconditionally submit to the exclusive jurisdiction of the Courts in Mumbai alone for the determination of any matters arising out of or under this agreement. He submits that the proceedings are however

being conducted by the respondent no.3 at Delhi. The next submission of the learned counsel for the petitioners is that the respondent no.2, who was earlier appointed as an arbitrator, his mandate was not terminated and thus the respondent no.3 could not have been appointed. The respondent no.3 has thus no jurisdiction to proceed with the arbitration.

3. A perusal of the record indicates that the petitioners had raised an issue of jurisdiction under section 16 of the Arbitration & Conciliation Act, 1996 before the respondent no.3. By an order dated 22nd July, 2016, the learned arbitrator rejected the said application filed under section 16 of the Arbitration & Conciliation Act, 1996 raising an issue of jurisdiction before the learned arbitrator. The petitioners thereafter filed another application under section 13(2) of the Arbitration & Conciliation Act, 1996 before the learned arbitrator on the similar grounds. By an order dated 26th August, 2016, the learned arbitrator rejected the said application also. In the said order, the learned arbitrator recorded that the application under section 13(2) of the Arbitration & Conciliation Act, 1996 was also on the similar ground which was raised in the application under section 16 of the Arbitration & Conciliation Act, 1996. The petitioners have now filed this proceeding under section 14(2) of the Arbitration & Conciliation Act, 1996 on the similar ground.

4. A perusal of the grounds raised in the arbitration proceedings clearly indicates that the appointment of the arbitrator is challenged again on the point of jurisdiction which is already rejected by the learned arbitrator by an order dated 22nd July, 2016 and 26th August, 2016. The jurisdiction of the learned arbitrator cannot raised even otherwise under section 14 of the Arbitration & Conciliation Act, 1996.

5. A perusal of the record indicates that the petitioners are in habit of filing the frivolous applications one after another before the learned arbitrator and now before this Court. This arbitration petition also in my view, is thoroughly misconceived and is filed with a view to delay the out come of the arbitration proceedings. The arbitration petition is accordingly dismissed with costs quantified at Rs.50,000/- which shall be paid by the petitioners to the respondents within one week from today.

(R.D. DHANUKA, J.)