

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
ARBITRATION APPLICATION NO.287 OF 2014**

M/s. E-Travel Online Pvt. Ltd.

....Applicant

Vs.

Mr. Arun Hitkari and Anr.

....Respondents

Mr. Piyush Shah for applicant.

Dr. Santosh Raje for respondents.

CORAM : K.R.SHRIRAM, J.

DATE : 4th JULY, 2017

P.C.:

1 Applicant had entered into a Leave and License Agreement dated 2nd April, 2012 with original respondent - Mrs. Kamla Hitkari. The agreement has been registered with the Joint Sub Registrar, Mumbai City-1. Pursuant to this agreement, applicant had given to original respondent a security deposit of Rs.7,80,000/- plus Rs.58,500/-. The counsel for applicant states that the agreement was terminated and he called upon original respondent to return the amount of Rs.8,38,500/-. In the termination notice, applicant also claimed a sum of Rs.24,00,000/- as damages. The termination notice was replied and in the reply, there has been no denial of entering into any agreement. The original respondent expired after the petition was filed and pursuant to liberty granted by this court by an order dated 18th February, 2015, the petition was amended to bring on record respondent nos.1(a), the son of the original respondent and 1(b), who was the grandson and Power of Attorney holder of original

respondent.

2 I have considered the Leave and License Agreement. Clause 18 provides as under :

“18. Any disputes arising under this Agreement as to the refund of security deposit or arrears of compensation or matters incidental thereto, which are not settled amicably, shall be referred to a Sole Arbitrator under the provisions of the Indian Arbitration and Conciliation Act, 1996, who shall be nominated by the Licensor/Licensee alone. The venue of arbitration shall be Mumbai. In all other aspects this Agreement shall be governed by the provisions of the Maharashtra Rent Control Act, 1999 and the court of Small Causes, Mumbai shall be the court of competent jurisdiction to hear and entertain all other disputes arising out of this Agreement.”

3 Since the claim made by applicant is not for possession of the premises but actually for return of the security deposit and for damages, certainly this application is maintainable.

4 Therefore, the application is allowed and accordingly disposed in terms of prayer clause – (a).

5 Mr. Justice A.V. Nirgude (retired), Former Judge of this Court, is appointed as Arbitrator to decide on all issues arising out of and in connection with and relating to the Leave and License Agreement dated 2nd April, 2012.

(K.R. SHRIRAM, J.)