

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

ARBITRATION APPLICATION NO. 267 OF 2015

Utility Premises Pvt. Ltd.	..Applicant
Vs.	
Shree Ram Urban Infrastructure Ltd.	.. Respondent

**WITH
ARBITRATION APPLICATION NO. 318 OF 2015**

M/s. Civil Infra Ltd.	..Applicant
Vs.	
Shree Ram Urban Infrastructure Ltd. & Anr.	.. Respondents

Mr.Dipen Merchant, senior advocate i/b I.V. Merchant and Co. for applicant in ARBAP/267/2015 and for respondent No.2 in ARBAP/318/2015.

Mr.Naushad Engineer a/w. Mr.Lalit Katariya and Ms.Benedicta Lobo i/b Katariya and Co. for respondent in ARBAP/267/2015 and for respondent No.1 in ARBAP/318/2015.

Mr. V.P. Bajpai i/b Bajpai and Associates for applicant in ARBAP/318/2015.

**CORAM : K.R.SHRIRAM, J.
DATE : 24TH JULY 2017**

P.C.

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1 The matter was argued for some time and Mr. Engineer for respondent submitted that it is not open to the applicant to come back under Section 11 of the Arbitration and Conciliation Act, 1996 (The said Act) because the Arbitral Tribunal has already been constituted under Section 11

of the said Act and the Arbitral Tribunal has terminated the arbitration proceedings because it was impossible for the Arbitral Tribunal to continue with the arbitration due to the conduct of the applicant including non-payment of fees of the Arbitrators.

2 Mr.Merchant for the applicant states that this application is not just under Section 11 but also under Section 15. But considering the prayers in the application, there is no relief sought under Section 15. Mr.Merchant seeks leave to take out an appropriate application for amending the application.

3 Mr.Engineer submitted that the application has already been amended once in 2016 and this defence was also raised at that time. Mr.Merchant states that instead of carrying too many amendments to the application, leave be granted to withdraw the application with liberty to file a fresh application putting in place all the reliefs.

4 The application dismissed as withdrawn with liberty as sought. If a fresh application is filed, the same will be disposed on merits.

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5 Mr. Bajpai for the applicant states that the position in this application is also identical to the Arbitration Application No.267 of 2015.

6 Mr. Bajpai seeks leave to withdraw the application with liberty to file a fresh application putting in place all the reliefs.

7 The application dismissed as withdrawn with liberty as sought. If a fresh application is filed, the same will be disposed on merits.

(K.R. SHRIRAM, J.)