

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY**  
***ORDINARY ORIGINAL CIVIL JURISDICTION***  
**ARBITRATION PETITION NO. 208 OF 2017**

**Lakeside Neighborhood Education &  
Recreation Society Private Limited & Anr. .... Petitioners**

**VERSUS**

**The Memon Co-operative Bank Limited  
(In Liquidation) ..... Respondents**

Mr.A.A.Kumbhakoni, Senior Advocate, a/w. Mr.S.R.Nargolkar, Mr.Lenol Coutinho, i/b. Mr.Sadaf Khan for the Petitioners.

Mr.Satish Shah, a/w. Mr.Sachin Satpute, i/b. Satpute & Co. for the Respondents.

**CORAM : R.D. DHANUKA, J.**

**DATE : 20<sup>th</sup> MARCH, 2017**

**P.C.**

By this petition, the applicant (original respondent in Arbitration Petition No. 1016 of 2012) seeks clarification that the direction no.(c) granting liberty to seek appropriate directions from the arbitral tribunal to file fresh pleadings was with respect to disputes between the petitioners and the respondent bank and not with regard to adjudication or determination of amount due from borrower and the guarantor who were not even parties to the arbitration proceedings.

2. Mr.Kumbhakoni, learned senior counsel for the applicants submits that based on the liberty granted by this court in clause (c) of the order dated 19<sup>th</sup> October, 2015, the original petitioners have withdrawn the earlier statement of claim and have filed fresh pleadings which are in total variance with the original pleadings filed by it before the erstwhile arbitrator. He submits that the learned arbitrator has rejected the objections raised by the applicants to the fresh pleadings filed by the original petitioners before the learned arbitrator by misconstruing the

directions issued in clause (c) of the order dated 19<sup>th</sup> October,2015.

3. After hearing learned senior counsel for the applicants and Mr.Shah, learned counsel for the original petitioner and on perusing the order dated 19<sup>th</sup> October, 2015, in my view the order passed by this court is clear and does not require any further clarification. If the learned arbitrator or the original petitioner has misconstrued the said order passed by this court as canvassed by the learned senior counsel for the applicants, the remedy of the applicants if any, would be somewhere else for challenging the said order passed by the learned arbitrator.

4. It is made clear that this court has not expressed any views on the issue as to whether the learned arbitrator or the original petitioner has misconstrued the order passed by this court on 19<sup>th</sup> October,2015 or not.

5. Arbitration petition is disposed of in the aforesaid terms. No order as to costs.

**(R.D.DHANUKA, J.)**