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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION (STAMP) NO.10233 OF 2018
WITH
WRIT PETITION (STAMP) NO.10234 OF 2018

Sagar C. Vora & Ors.	...Petitioners
V/s.	
The Saraswat Co-op. Bank Ltd. & Ors.	...Respondents

Mr.Pankaj D. Purway for the Petitioners.

CORAM : R.D. DHANUKA, J.
DATE : 4TH APRIL, 2018.

P.C. :-

1. By these petitions filed under Article 227 of the Constitution of India, the petitioners have impugned the order passed by the learned arbitrator rejecting the application for cross-examination of the witness proposed to be examined by the opposite party. In the Writ Petition (Stamp) No.10234 of 2018, the petitioners have impugned the order passed by the learned arbitrator on 1st March, 2016 allowing the application dated 11th January, 2018 for framing issues on counter claim and refusing to take on record the counter claim filed by the petitioners on the ground that the fees of the learned arbitrator has not been paid insofar as the counter claim is concerned.

2. Learned counsel appearing for the petitioners placed reliance on the judgment delivered by the Division Bench of this Court in case of **Dowell Leasing & Finance vs. Radheshyam B. Khandelwal** in Writ Petition No.1133 of 2006 decided on 23rd July, 2007 and the judgment delivered by the learned single Judge of this Court in case of **Sanwal Coal Carriers vs. Western Coalfields Limited** decided on 27th August, 2010.

3. The Supreme Court in case of **SBP & Co. vs. Patel Engineering Limited & Anr. 2006 AIR (SC) 450** has held that the arbitral tribunal is not amenable to writ jurisdiction. I am bound by the judgment of the Supreme Court in case of **SBP & Co.** (supra) and not the judgment of the Division Bench and the single Judge taking a contrary view.

4. The remedy of the petitioners to challenge the impugned orders passed by the learned arbitrator would be to challenge the final award as and when rendered by the learned arbitrator and not by way of the writ petition in view of the limited intervention permissible under section 5 of the Arbitration & Conciliation Act, 1996. Insofar as refusal on the part of the learned arbitrator to entertain the counter claim on the ground that the fees is not paid in respect of the counter claim by the petitioners is concerned, the said order also cannot be challenged by way of writ petition.

5. Both the writ petitions are thus dismissed as not maintainable. No order as to costs.

(R.D. DHANUKA, J.)