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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CIVIL REVISION APPLICATION NO.483 OF 2018

M/s.P.K. Associates	...Applicant
V/s.	
M/s.Sai Developers & Ors.	...Respondents

Mr.B.K. Bali with Ms.Anju Singh and Ms.Prachiti Karnik I/b Bali Associates for the Applicant.

Mr.Shardul Singh I/b Mr.S.N. Biradar for the Respondent Nos.1 to 4.

CORAM : R.D. DHANUKA, J.
DATE : 15TH OCTOBER, 2018.

P.C. :-

1. By this civil revision application filed under under section 115 of th Code of Civil Procedure, 1908, the applicant (original plaintiff) has impugned the order dated 2nd May, 2018 passed by the learned 3rd Joint Civil Judge, Senior Division, Kalyan allowing Exhibit – 26 filed by the defendants raising a preliminary issue as to the jurisdiction of the learned Trial Court in view of the provisions of the Arbitration & Conciliation Act, 1996.

2. Mr.Singh, learned counsel appearing for the original defendant does not dispute that the said order was passed by the learned Trial Court below Exhibit – 26 which application was filed by the defendant under Order 7 Rule 11(d) of the Code of Civil

Procedure, 1908. He submits on instructions that an application under section 8 was separately filed by the defendant on 9th April, 2018 along with the written statement . The statement is accepted.

3. In view of this position, the impugned order dated 2nd May, 2018 passed by the learned Trial Judge is quashed and set aside. The Application (Exhibit – 26) is rejected.

4. Learned Trial Judge is directed to dispose of the said application if filed as stated by the learned counsel for the defendant under section 8 of the Arbitration & Conciliation Act, 1996 on 9th April, 2018 on its own merit. The petitioner herein shall be at liberty to file affidavit in reply within two weeks from today and a copy thereof shall be served upon the petitioner's advocate simultaneously. Learned Trial Judge shall make an endeavor to dispose of the said application filed under section 8 of the Arbitration & Conciliation Act, 1996 within eight weeks from the date of communication of this order.

5. Mr.Bali, learned counsel for the applicant on instructions states that no such application appears to have been filed by the original defendant under section 8 of the Arbitration & Conciliation Act, 1996 as canvassed by the learned counsel for the defendant. It is made clear that if the application under section 8 is not filed so far by the original defendant as sought to be canvassed before this Court along with the written statement, learned Trial Judge shall not

permit the original defendant to file any application under section 8 at this stage.

6. The Civil Revision Application No.483 of 2018 is accordingly disposed of in aforesaid terms. There shall be no order as to costs.

Vasant Anandrao
Idhol

Digitally signed by Vasant
Anandrao Idhol
Date: 2018.10.17 17:55:44 +0530

(R.D. DHANUKA, J.)