

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

CIVIL APPLICATION NO.370 OF 2017

IN

REVIEW PETITION (L) NO.36312 OF 2017

IN

CIVIL ARBITRATION PETITION NO.36 OF 2017

Modi Dairy through its partners Applicants/Petitioners/Org. Resps.

Vs.

Alfa Laval (India) Limited Respondents/Original Petitioners

Ms. Suvarna Joshi for petitioners.

Ms. Alpana Ghone a/w. Mr. Chirag Dave and Mr. Dnyaneshwar Jadhav i/b.
Legasis Partners for respondents.

CORAM : K.R.SHRIRAM, J.

DATE : 4th JANUARY, 2018

PC.:

1 Petitioners in this review petition are original respondents to the arbitration petition no.36 of 2017. When the order dated 13th October, 2017 was passed, none had appeared for review petitioners. The petition alleges that the agreement relied upon by respondents, who are original petitioners, had been modified/there is a novation of contract vide minutes of meeting dated 4th April, 2016 and that the jurisdiction shall be Bikaner and not Mumbai/Pune.

2 Ms. Ghone tenders an order dated 28th November, 2013 passed by this Court in notice of motion (lodging) no.1055 of 2013 in arbitration petition no.78 of 2012 (*Bhageeratha Engineering Limited vs. M/s. Vedanta Aluminium Limited*) to submit that review application is not maintainable

in an application filed and decided under Section 11 of the Arbitration and Conciliation Act, 1996. Paragraph 3 of the said order reads as under :

“3. In my view, since the Application filed under section 11 before the Chief Justice for appointment of Arbitrator is not an application before the Court as held by the Supreme Court in the case of SBP & Co. vs. PATEL ENGINEERING LTD (2005) 8 Supreme Court Cases 618 which has been followed by the Supreme Court and this Court, the Review Application is not maintainable.”

3 In the circumstances, the review petition is dismissed with no order as to costs. Civil application also accordingly stands disposed.

(K.R. SHRIRAM, J.)