

Urmila Ingale

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
WRIT PETITION NO. 697 OF 2017
WITH
CHAMBER SUMMONS NO. 241 OF 2017
WITH
NOTICE OF MOTION NO. 352 OF 2017

Douceur Sportswear Manufacturing
Company Private Limited and anr. .. Petitioners

Vs.

Export Credit Guarantee Corporation
of India Ltd and anr. .. Respondents

Mr.Nitin Thakkar Senior Advocate a/w Mr.Bharat Gandhi I/b
Mr.Swapnil Newaskar, & Ms.Poonam Kotkar, for the Petitioners.
Mr.Amit Arsiwala a/w Ms.Amrita Joshi I/b The Law Point, for
Respondent No.1.
Ms.Jyoti Sanap I/b V.Deshpande & Co., for Respondent No.2.

CORAM : R.M.SAVANT &
M.S.KARNIK, JJ.
DATE : 18th SEPTEMBER, 2018

P.C. :

. The learned Senior Counsel Mr.Thakkar makes three
fold submissions. Firstly that the policy in question be
interpreted by this Court in the above Writ Petition by taking
into consideration the correspondence which has ensued

between the parties. The second submission is that since the Suit being Commercial Summary Suit (L) No.969 of 2018 has been filed by the Respondent No.1, in which the Petitioner No.1 is joined as a defendant, it would be in the said Suit that the policy would be interpreted and the third submission is that since the Suit has already been filed, the parties may be referred to Arbitration under Section 89 of CPC.

2. Insofar as the first submission is concerned, it is not possible to accept the said submission, especially having regard to the fact that we are sitting in the writ jurisdiction under Article 226 of the Constitution of India.

3. Insofar as other two submissions are concerned, it would be before the learned Single Judge in the Suit in question that the parties would be entitled to urge the said contentions, as principally the learned Counsel appearing for Respondent No.1 has stated that the Respondent No.1 has no objection in going for arbitration provided that the Respondent No.2 – Bank

is also agreeable to the said suggestion. It is therefore now not necessary for us to keep the above Writ Petition pending, having regard to the fact that the Suit has already been filed by Respondent No.1 and therefore either of the aforesaid two alternatives can be considered when the Suit comes up before the learned Single Judge. The contention of the parties in that regard are kept open for being urged before the learned Single Judge.

4. In view of the disposal of the Petition, Notice of Motion does not survive and to accordingly stand disposed of as such.

Chamber Summons (L) No.391 of 2018 AND Chamber Summons (L) No.392 of 2018

5. Not on board. Taken on record with the consent of the learned Counsel for the Petitioners.

6. In view of the disposal of the Petition, the above

Chamber Summons do not survive and to accordingly stand disposed of as such.

(M.S.KARNIK, J.)

(R.M.SAVANT, J.)