

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
ORDINARY ORIGINAL CIVIL JURISDICTION  
ARBITRATION PETITION NO.275 OF 2006**

|                                 |     |             |
|---------------------------------|-----|-------------|
| Saraswati Ramchandra Ghanate    |     |             |
| And Another                     | ... | Petitioners |
| Versus                          |     |             |
| John Peter Fernandes And Others | ... | Respondents |

.....

Ms. Prachi Tatake for the Petitioners.  
Mr. Rishabh Shah i/b Baptist D'Souza for Respondent No.1.

.....

**CORAM : S.C.GUPTE, J.**

**DATE : 12 DECEMBER 2018**

**P. C. :**

. After the matter is heard at some length, it is agreed between the parties that the impugned award may be set aside and the matter be remanded to a new Arbitrator for a fresh hearing. It is, however, agreed between the parties that the finding of the learned arbitrator in the impugned award that an amount of Rs.11,50,000/- was paid by the Respondents herein to the Petitioners under the suit agreement for sale, shall be treated as a finding accepted by the parties. The question as to whether this amount is liable to be refunded or whether the Petitioners are entitled to forfeit the same, shall alone be considered by the arbitrator on remand. The parties will be free to lead further evidence and make submissions on this limited issue in the remand hearing. Accordingly, the impugned award is set aside and the disputes are remanded to a new arbitrator for a fresh consideration as per the above observations.

2      **Mr. Vishal Kanade**, Advocate, is appointed as a Sole Arbitrator, subject to his disclosure and consent, to hear the reference in the light what is recorded hereinabove. The parties will be entitled to lead such further evidence and advance such further submissions, as they may be advised, on the limited aspect, referred to above.

3      The arbitration petition is disposed of in above terms.

**(S.C. GUPTE, J.)**