

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
SUIT NO.415 OF 2017
WITH
NOTICE OF MOTION NO.1232 OF 2017**

Bikramjit Sen ... Plaintiff
versus
Techprocess Payment Services Ltd. and Anr. ... Defendants

**WITH
SUIT NO.403 OF 2017
WITH
NOTICE OF MOTION NO.1221 OF 2017**

Deepak Mishra and Ors. ... Plaintiffs
versus
Techprocess Payment Services Ltd. and Anr. ... Defendants

Mr. Sahil Saiyed with Mr. Nikhil Apte, Mr. Bahraiz Irani i/by M/s. Wadia Ghandy and Co., for Plaintiffs in Suit No.415 of 2017.
Ms. Sneha Phene i/by Mr. Gireesh U.G.Menon, for Plaintiffs in Suit No.403 of 2017.
Mr. Zal Andhyarujina with Ms. Manini Bharati i/by M/s. Trilegal, for Defendant Nos.1 and 2.

CORAM: S.J. KATHAWALLA, J.

DATE: 19th JANUARY, 2018

P.C.:

1. Heard the learned Advocates for the parties. The parties have agreed that the disputes forming subject matter of the above Suits be referred to Arbitration. Mr. Zal Andhyarujina appearing for Defendant Nos.1 and 2 in both the above Suits, on instructions, suggests that a tribunal of three Arbitrators be constituted. However, Mr. Sahil Saiyed appearing for the Plaintiff in Suit No.415 of 2017 and Ms. Sneha

Phene appearing for the Plaintiffs in Suit No.403 of 2017 state that past experience shows that appointment of three arbitrators involves huge costs to the parties concerned as well as results in delay in the proceeding as it is difficult to get convenient dates from three Arbitrators. Infact, Advocate Ms. Phene states that it will be very difficult for her clients to even pay the fees of the sole Arbitrator, leave aside three Arbitrators. I agree with the submission of both the Advocates appearing for the Plaintiffs in the above two Suits and therefore, pass the following order :

(i) All disputes between the parties arising out of the subject matter of both the above Suits are referred to the sole arbitration of Mr. Shiraz Rustomjee, Senior Advocate.

(ii) The disclosure of Mr. Shiraz Rustomjee, Senior Advocate under Section 11 (8) read with Section 12 (1) of the Arbitration and Conciliation Act, 1996 as amended by the Arbitration and Conciliation (Amendment) Act, 2015 (3 of 2016) is taken on record.

(iii) The parties shall appear before the learned Arbitrator in his chambers, on 24th January, 2018 at 05.30 p.m. and obtain necessary directions.

(iv) The order of status quo shall continue for a period of four weeks. The same may be continued by the learned Arbitrator after hearing the parties in an Application under Section 17 of the Act. Needless to add that the learned Arbitrator shall hear the Application under Section 17 on its own merits.

(iv) The learned Arbitrator shall endeavour to pass his final Award within a period of six months from the date of this order. The learned Arbitrator shall not grant adjournments to the parties unless absolutely necessary. The parties too shall not seek any adjournments unless absolutely necessary.

(v) All contentions of the parties are kept open.

(vi) The cost of arbitration shall initially be borne by the Plaintiff in Suit No.415 of 2017 and Defendant No.1 equally.

(vii) The venue of Arbitration shall be at Mumbai.

(vii) In view of this order, the above Suits as well as Notices of Motion are disposed of. Refund of Court Fees, if any, as per rules.

(S.J.KATHAWALLA, J.)