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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

ARBITRATION PETITION NO.1027 OF 2010

Body Thirst	Petitioner
vs	
V. Harkishandas	...Respondent
.....	
Mr. H.N. Vakil, i/b. Mulla & Mulla & CB&C, for the Petitioner.	

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

DATED: 5 DECEMBER, 2018

P.C.:

. None appears for the Respondent. None appeared even on the last occasion, though duly served. Learned Counsel for the Petitioner undertakes to file an affidavit of service within two weeks from today.

2. The award impugned in the present petition shows that none of the defences raised by the Petitioner herein, who was the opponent before the arbitral tribunal, has been considered by the learned arbitrator. In fact, there is no reference to the Petitioner's written statement as also documents filed by the Petitioner in the award. Effectively, the award is a non-speaking award. Accordingly, the award, being in express contravention of sub-section (3) of Section 31 of the Arbitration and Conciliation Act, 1996, is opposed to public policy within the meaning of clause (b)(ii) of sub-section (2) of Section 34 of the Arbitration and Conciliation Act, 1996 ("Act"). The award is also, in the

premises, vitiated on account of a patent illegality appearing on the face of the award within the meaning of sub-section (2A) of Section 34 of the Act. Accordingly, the challenge ought to succeed.

3. The arbitration petition, in the premises, is allowed by setting aside the impugned award dated 29 December 2009.

(S.C. GUPTE, J.)