rrpillai

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

NOTICE OF MOTION NO. 1087 OF 2018

IN

COMMERCIAL ARBITRATION PETITION NO. 605 OF 2018

Siddhant Auto Components Private Ltd and Anr. … Applicant

vs.

The Saraswat Co-operative Bank Ltd … Respondents

Ms, Aditi A. Gautam i/b. Mr. Abhishek R. Singh for the Applicant / Petitioner.
Mr. Bhupesh V. Sawant for the Respondent.

CORAM : A.K. MENON, J.
DATE : 16th JULY, 2018

P. C.

1. By this petition the petitioner company and its director seek to challenge an Award dated 11th January, 2018 passed by the sole arbitrator under the Multi State Co-operative Societies Act, 2002. The only ground for challenge urged before me today is that the petitioners were not granted sufficient opportunity to press their case before the Tribunal.

2. Learned counsel for the petitioners relies upon the fact that after receipt of notice of hearing on 26th December, 2017 and after receiving notice dated 28th November, 2017 the second petitioner had written to the Arbitral Tribunal on 21st

December, 2017 seeking postponement of the date of hearing fixed on 26th December, 2017. The meeting fixed on 26th December, 2017 was a preliminary meeting and it is the case of the petitioners that the date was not convenient for the petitioners and hence they sought postponement preferably to 15th January, 2018 since the second petitioner was stated to be traveling.

3. Perusal of the letter dated 21st December, 2017 reveals that it is addressed to "The Officer of the Arbitral Tribunal, Mumbai-400 028". The letter does not bear any address. On a query from the Court, learned counsel for the petitioner submitted that the letter was dispatched to the Tribunal by Speed Post. On the photo copy of the letter annexed at Exhibit E there is an endorsement the "Dispatched through speed post". As proof of delivery learned counsel for the petitioners relies upon Exhibit F. However Exhibit-F is receipt issued by a courier service. Moreover the consignment covered by the said receipt / shipment way bill is not even addressed to the Tribunal but is addressed to the claimant.

4. In the circumstances there is no explanation whatsoever for the petitioner remaining absent on the schedule date nor have they made any enquires in relation to the reference, notice of which was duly served upon them. In view of the aforesaid it is clear that the petitioners have made an incorrect statement and on oath. The only ground urged viz that the petitioner was not given an opportunity to defend the claim is but a hollow ground devoid of factual basis. In the circumstances there is no reason to interfere with the Award. Accordingly, I pass

the following order :

(i) Arbitration petition is dismissed.

(ii) In view of the dismissal of the petition Notice of Motion does not survive. Notice of motion is also disposed of.

(A.K. MENON, J.)

Rajeshwari Ramesh Pillai
Digitally signed by Rajeshwari Ramesh Pillai
Date: 2018.07.18 10:19:18 +0530