

vai

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

ARBITRATION PETITION NO.709 OF 2017
WITH
COMMERCIAL ARBITRATION PETITION NO.566 OF 2017

Rameshchandra Mansukhani & Ors.	...Petitioners
V/s.	
Jagdishchandra Mansukhani & Ors.	...Respondents

Mr.Gaurav Shah i/b M/s.Kanga & Co. for the Petitioners.

Mr.Sharan Jagtiani with Mr.Aditya Pimple and Mr.M.S. Khadilkar i/b Orbit Law Securities for the Respondent Nos.1 to 5 and 7.

Ms.Sapna Rachure for the Respondent No.6 in Arbitration Petition No.709 of 2017 and Commercial Arbitration Petition No.566 of 2017.

CORAM : R.D. DHANUKA, J.
DATE : 14TH FEBRUARY, 2018.

P.C. :-

1. By these petitions filed under section 37 of the Arbitration & Conciliation Act, 1996, the learned arbitrator has rejected the applications filed by the respondents (original claimants) and partly allowing the application filed by the petitioners.
2. Mr.Shah, learned counsel appearing for the petitioners states that inspite of *ad-interim* injunction granted by the learned arbitrator, the original claimants have sold some of the shares and thus the original claimants shall be directed to deposit those shares

either with the learned arbitrator or with this Court.

3. It is not in dispute that by the impugned order, the learned arbitrator has already granted an injunction in favour of the petitioners herein and against the original claimants not to create any third party rights in respect of those shares.

4. Learned arbitrator in the impugned order and more particularly paragraph 37 has made it clear that both sides have made serious allegations of breach of the agreement against the other side and has further held that at this interlocutory stage, it is not possible for the arbitral tribunal to come to a conclusive finding as to whether (a) the claimants are in breach of their obligations and/or (b) whether the respondents are in breach of their obligations. It would be a matter of evidence to be determined at the final hearing of the arbitration as to whether either or both parties are in breach of their obligations of the agreement.

5. In my view, if after recording evidence of both the parties, if the learned arbitrator comes to the conclusion that either of the party was in breach of the agreement, such party would be at liberty to adopt appropriate proceedings for such breach in accordance with law.

6. It is not in dispute that the arbitral proceedings are at the advanced stage. This Court has granted extension of time to the

learned arbitrator to render an award on or before 15th May, 2018. This Court has made it clear that no further extension would be granted. Based on the order passed by this Court, the learned arbitrator has already fixed further schedule of the arbitral proceedings, including the schedule for final arguments to be advanced by both the parties. For these reasons, I am not inclined to interfere with the impugned order passed by the learned arbitrator. Both the parties are directed to appear before the learned arbitrator and shall not ask for any unnecessary adjournment.

7. Both the arbitration petitions are accordingly disposed of in aforesaid terms. No order as to costs.

(R.D. DHANUKA, J.)