

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

ARBITRATION PETITION NO.1226 OF 2016

Pradip Bharat Joshi & Anr.	..	Petitioners
Vs.		
Janata Shakari Bank Ltd.	..	Respondent

Mr.Jitendra Ranawat i/by Mr.Y.S. Singh for the petitioners.
Mr.Aniruddha Lad i/by M/s.B.J. Law Office for the respondent.

***CORAM : R.D. DHANUKA, J.
DATE : 17th January 2018***

P.C.:

. By this petition filed under Section 34 of the Arbitration and Conciliation Act, 1996, the petitioners have impugned the arbitral award dated 12th May 2016 on the following three grounds which are urged by the learned counsel for consideration.

A) The petitioners were not the members of the respondent-bank and thus these proceedings under Section 84 of the Multi State Co-operative Societies Act, 2002 could not have been filed by the petitioners.

B) Since the petitioners were not the members, limitation provided under Section 85(1)(a) of the Multi State Co-operative Societies Act, 2002 would not be attracted to the facts of this case and the claim of the respondent was barred by law of limitation.

C) The respondent had not affixed the Court Fees on the affidavit in lieu of examination-in-chief filed before the learned arbitrator and thus

the said affidavit in lieu of examination-in-chief could not have been relied upon by the respondent before the learned arbitrator.

2. In so far as the first submission of the learned counsel for the petitioners is concerned, the petitioners have not disputed that the petitioners had obtained loan from the respondent by executing various documents. The petitioners committed default in making repayment of loan amount. The petitioners were admittedly the members of the Co-operative Society when the respondent was the Co-operative Society within the meaning of 'Co-operative Society' under the provisions of Maharashtra Co-operative Societies Act, 1960. The respondent-bank was subsequently converted into the Multi State Co-operative Society on 29th March 2012 i.e. after loan was sanctioned on 5th April 2011. The respondent has rightly pressed in service Section 126 (4) of the Multi State Co-operative Societies Act, 2002. In view of the said provision in respect of the earlier cause of action, prior to the commencement of the Multi State Co-operative Societies Act, the Society which was converted into the Multi State Co-operative Society, after the date of enactment of the Multi State Co-operative Societies Act, 2002, Multi State Society is allowed to continue the erstwhile proceedings under the provisions of Multi State Co-operative Societies Act, 2002.

3. I am thus not inclined to accept the submission of the learned counsel for the petitioners that the arbitral proceedings invoked by the respondent under Section 84 of the Multi State Co-operative Societies Act, 2002 was illegally invoked by the respondent and that the learned arbitrator appointed by the Central Registrar had no jurisdiction

to entertain, try and dispose of the arbitral proceedings initiated by the respondent.

4. In so far as the issue of limitation is concerned, since by virtue of the respondent having converted into the Multi State Co-operative Society on 29th March 2012, parties were governed by the provisions of the Multi State Co-operative Societies Act, 2002. The provision of Section 84(1)(a) of the Multi State Co-operative Societies Act, 2002 in this case would be thus attracted to the parties. The petitioners are still alive and thus question of commencement of limitation did not arise. Learned arbitrator has dealt with the issue of limitation in great detail in the impugned order and has thus rightly rendered a finding that the claim filed by the respondent is within time and not barred by law of limitation. There is thus no merit in the submission of the learned counsel for the petitioners.

5. In so far as the issue of non-payment of stamp duty raised by the petitioners is concerned, it is fairly submitted by the learned counsel for the petitioners that this issue had not been raised by the petitioners before the learned arbitrator. The petitioner thus cannot be allowed to raise this issue for the first time across the bar in this petition while urging this petition. Be that as it may, when the said affidavit was tendered by the respondent before the learned arbitrator, objection about payment of stamp duty was not raised and thus cannot be raised now. No other submission is raised by the learned counsel for the petitioners.

6. A perusal of the award indicates that the learned arbitrator has rendered award after dealing with the documents, submissions and

oral evidence led by the respondent. The findings rendered by the learned arbitrator are not perverse and thus no interference is warranted with the impugned arbitral award in this petition. The petition is accordingly devoid of merit and is dismissed. No order as to costs.

R.D. DHANUKA, J.