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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
ARBITRATION PETITION NO. 736 OF 2017
WITH
NOTICE OF MOTION NO. 2014 OF 2017

Store One Retail India Ltd

...Petitioner

V/s.

ITC Limited

...Respondent

Mr. Ashok Singh a/w. Ms. Mahi Lakra for Petitioner.

Mr. Mutahhar Khan i/b. Ms. Shaba Khan for the Respondent.

CORAM : R.D. DHANUKA, J.

DATE : 31ST JANUARY, 2018.

P.C. :-

1. By this petition filed under Section 34 of the Arbitration and Conciliation Act, 1996, the petitioner has impugned the arbitral award dated 19th July, 2017 passed by the Arbitral Tribunal along with the claims made by the respondent.

2. The learned counsel appearing for the petitioner invited my attention to the reasons recorded by the arbitral tribunal in the impugned award, copies of some of the emails exchanged between the parties which are on pages 168, 169 and 171 and also the oral evidence of the witness examined by the respondent extracted on page 31. It is submitted by the learned counsel that the witness examined by the respondent himself has admitted that the statement

of account which is at page 171 of the arbitration petition was prepared by the claimant and not by the respondent. He submits that in no circumstances, the arbitral tribunal could have come to the conclusion that the said statement at page 171 was sent along with the email sent by the petitioner to the respondent.

3. The learned counsel for the respondent on the other hand submits that the arbitral tribunal has considered not only the documentary evidence relied upon by the parties but also the oral evidence led by the respondent. He submits that the petitioner admittedly did not enter the witness box to prove that the statement annexed at page 171 of the arbitration petition was not sent along with the email sent by the petitioner to the respondent. It is not in dispute that the parties had exchanged those emails which are at pages 168, 169 and 171. The email at page 169 which was admittedly sent by the petitioner to the respondent refers to an attachment showing the reconciliation status of Indiabulls Mart. In response to the said email the respondent has replied with an email dated 03rd September, 2008. The petitioner responded to the said email on 04th September, 2008 thereby attaching the revised summary sheet of the outstanding details of the petitioner to the respondent.

4. A perusal of the impugned award rendered by the arbitral

tribunal indicates that the arbitral tribunal has not only considered the admitted emails exchanged between the parties but also the oral evidence led by the respondent. Petitioner admittedly did not examine any witness to prove that the statement annexed at page 171 was not sent along with email sent by the petitioner to the respondent. It is not in dispute that the petitioner did not rely upon any other statement annexed to the said email sent by the petitioner to the respondent.

5. A perusal of the award clearly indicates that the arbitral tribunal has rendered detailed reasons after considering the oral and documentary evidence and has rendered findings of facts which are not perverse. Such finding of facts thus cannot be interfered by this Court in this petition filed under Section 34 of the Arbitration and Conciliation Act, 1996.

6. The petition is devoid of merits and is accordingly dismissed. No order as to costs.

7. In view of dismissal of arbitration petition nothing survives in the notice of motion and is accordingly disposed of.

(R.D. DHANUKA, J.)