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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

ARBITRATION APPEAL NO. 21 OF 2019
WITH
CIVIL APPLICATION NO. 21 OF 2019

Mr. Nitin Satish Mittal

.. Appellant
(Org. Applicant)

Vs.

Mr. Manoj Vijaykumar Agarwal
& Ors.

..Respondents

Mr. Nikhil Wadekar a/w Mr. Hemal V. Ganatra for Appellant.
None for the Respondents.

CORAM: PRADEEP NANDRAJOG, CJ. &
SMT. BHARATI DANGRE, J.

SEPTEMBER 19, 2019.

P.C.

1. None appears for the Respondents inspite of service being effected. Thus we are constrained to decide the Appeal without the assistance from the side of the Respondents.

2. Challenge in the Appeal is to the order dated 12th July, 2019 passed by the learned District Judge-1, Pune in Civil M.A. No. 380 of 2019.

3. The learned District Judge-1, Pune has dismissed Application under Section 9 of the Arbitration and Conciliation Act, 1996 reasoning that since an Arbitrator has been appointed to decide the dispute between the parties, an efficacious remedy under Section 17 of the Arbitration and Conciliation Act, 1996 was available.

4. The impugned order overlooks the fact that Section 9 of the Arbitration and Conciliation Act, 1996 confers concurrent jurisdiction on a court to grant interim measures pending dispute adjudication before the learned Arbitrator. More fundamental, the impugned order overlooks the fact that on 23rd March, 2019 i.e. much before the passing of the impugned order, the learned sole Arbitrator Justice S. R. Sathe (Retd.) had expressed his non-willingness to act as an Arbitrator and thus the mandate of the Arbitrator had terminated as per Section 15(1)(a) of the Arbitration and Conciliation Act, 1996.

5. Thus we dispose of the the Appeal granting interim measure as prayed for requiring Respondent Nos.1 and 2 not to transfer, alienate, part possession with or encumber the assets of the partnership firm named M/s. Bharati Developers for the reason

the dispute which has to be decided by the Arbitrator concerns dissolution of the said firm on account of death of its partner late Satishkumar Mittal.

6. Civil Application No. 21 of 2019 does not survive and is disposed of.

SMT. BHARATI DANGRE, J.

CHIEF JUSTICE