

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**ORDINARY ORIGINAL CIVIL JURISDICTION****ARBITRATION PETITION NO.1647 OF 2015**

Gaurav SomaniPetitioner
vs
Pawan Kumar Hariprasad Gupta ...Respondent
.....
Mr. Ashok Singh, a/w. Mr. Pravin Singh, for the Petitioner.

.....
CORAM : S.C. GUPTE, J.

DATED: 6 FEBRUARY 2019

P.C.:

. Heard learned Counsel for the Petitioner. None appears for the Respondent, though served. This arbitration petition challenges an award passed exparte against the Petitioner in an arbitration reference. It is submitted that the award is based on an MOU of 7 May 2010, purportedly entered into by the Petitioner's predecessor-in-title for sale of immovable property. The MOU is a matter of contest. The sole arbitrator was purportedly appointed in pursuance of an arbitration agreement contained in this MOU. It is submitted that there was neither invocation of the arbitration agreement at any time by issuance of any notice to the Petitioner, nor did the Petitioner have any notice of the arbitration proceedings. There is no reply to the petition on the part of the Respondent. The arbitration award itself contains only general statements concerning notice to the Petitioner herein. There are no particulars of any such notice addressed by the arbitrator to the Petitioner herein in respect of the hearings of the arbitration reference.

There is no material placed on record to show either that there was an invocation of the arbitration agreement by notice to the Petitioner or that the Petitioner was served with the notice and proceedings of the reference. The Petitioner's case that he did not have the proper notice of the appointment of the arbitrator and the arbitration proceedings and was even otherwise unable to present his case, is practically uncontroverted. Accordingly, the petition is allowed by setting aside the impugned award dated 12 August 2011.

(S.C. GUPTE, J.)