

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

ARBITRATION PETITION NO. 485 OF 2015

Ramji Ambalal Dubaria

...Petitioner

vs

1. The Saraswat Co-operative Bank Ltd.

2. Hansraj Babubhai Waghela

...Respondents

Mr.Prashant P. Kulkarni for Petitioner.

CORAM : S.C.GUPTE, J.

DATE : 5 FEBRUARY 2019

P.C. :

Heard learned Counsel for the Petitioner.

2 The Petition challenges an award passed by a sole arbitrator in a reference under Section 84 of the Multi-State Co-operative Societies Act, 2002. The reference was filed by Respondent No.1 against the Petitioner, who was arraigned as Opponent No.2 in his capacity as a guarantor for the loan given by the Respondent disputant to Opponent No.1, i.e. Respondent No.2 herein.

3 The main grievance of the Petitioner in the present petition is that the Petitioner did not have an opportunity to present his case to the learned arbitrator. The Petitioner has placed on record an application made by the Petitioner on 13 November 2014 praying for time to enable him to appoint an advocate. Without considering this application, the learned arbitrator appears to have simply proceeded exparte making a solitary observation in the award that the opponents did not appear though served and also deemed to be served. There is no reply to the petition and in

particular, no issue is joined with the Petitioner's averment that despite his having applied for time to enable him to engage an advocate, the learned arbitrator, without considering his request, proceeded to adjudicate the disputes exparte. There is, accordingly, a case for setting aside the impugned award for the inability of the Petitioner to present his case. The impugned award dated 11 December 2014 is, accordingly, set aside to the extent it relates to the Petitioner herein.

4 The arbitration petition is, accordingly, disposed of. No order as to costs.

(S.C. GUPTE, J.)