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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
IN ITS COMMERCIAL DIVISION

NOTICE OF MOTION NO.1197 OF 2019
IN
COMMERCIAL ARBITRATION PETITION NO.578 OF 2019

Pepe Jeans India Limited …Applicant

IN THE MATTER BETWEEN :

Pepe Jeans India Limited ...Petitioner
V/s.
Sunrise Agencies & Ors. ...Respondents

Mr.Sharan Jagtiani with Mr.Ishwar Nankani and Mr.Sumeet Nankani i/b M/s.Nankani Associates for the Applicant / Petitioner.

Mr.Amit H. Yadav for the Respondents.

CORAM : R.D. DHANUKA, J.
DATE : 4TH SEPTEMBER, 2019.

P.C. :-

1. By a separate passed today by this Court in Commercial Arbitration Petition No.578 of 2019, this Court has already admitted the said commercial arbitration petition which raises various issues and requires detail scrutiny.

2. By the impugned award, learned arbitrator has rejected the entire claim made by the applicant on the ground that the claims are barred by law of limitation. It is the case of the applicant that the counter claims which were made by the respondents were in the nature of claim for damages and thus even if the claims made by the

applicant could have been rejected on the ground of limitation, the cause of action for claim for damages would have arisen when the goods were supplied by the applicant to the respondents, which were alleged to be defective. In my *prima-facie* view, the learned arbitrator has applied different yardstick in the arbitral award.

3. In these circumstances, the notice of motion is made absolute in terms of prayer clause (a) on the condition that the applicant deposits Rs.20,00,000/- in this Court within four weeks from today and shall inform the respondents' advocate about such deposit within one week from the date of such deposit. It is made clear that no further extension of time would be granted. If the amount is not deposited within the time prescribed, interim stay granted by this Court to stand vacated without further reference to the Court.

4. If the amount is deposited by the applicant, the same shall be invested by the Prothonotary & Senior Master of this Court in fixed deposit of a nationalized bank initially for a period of two years and thereafter for like period after obtaining further orders from this Court depending upon the outcome of the commercial arbitration petition.

5. The notice of motion is disposed of on aforesaid terms. There shall be no order as to costs.

(R.D. DHANUKA, J.)