

Shephali

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
IN ITS COMMERCIAL DIVISION
COMM ARBITRATION APPLICATION NO. 295 OF 2019
WITH
COMM ARBITRATION PETITION NO. 633 OF 2019**

Chanderbhan s/o Khakoomal Tilwani

...Applicant/
Petitioner

Versus

Dinesh Futarmal Jain & Ors

...Respondents

Mr AM Saraogi, *for the Applicant/Petitioner.*

Mr Mayur Khandeparkar, *with Mr Ativ Patel, for Respondents Nos. 1 to 4.*

CORAM: G. S. Patel, J.

DATED: 5th November 2019

PC:-

1. Having heard both sides at some length, I note the submission made by Mr Khandeparkar for the Respondents that in the document of 24th July 2015 at Exhibit “D” from pages 54 onwards, and which the Petitioner represented by Mr Saraogi claims contains an Arbitration Agreement at clause 51 at page 62, there is in fact no binding arbitration agreement as between the Petitioners and the Respondents. That document, in Mr Khandeparkar’s submission, was one by which the Petitioner exited a Limited Liability

Partnership. The arbitration agreement was restricted to disputes between the partners inter se and between the partners and the LLP. In his submission, the word “partners” would mean only those continuing in the LLP and not those retiring or exiting it. He points out several clauses of the agreement which provide for the rights and liabilities of the continuing partners.

2. *Prima facie*, this appears to be correct. There is something of a history to this document but it may not be necessary to examine this on merits.

3. Mr Saraogi’s instructions from Petitioner No. 1, who is present in Court, are now to accept that there is no Arbitration Agreement as between the Petitioners and the Respondents. Mr Saraogi seeks leave to withdraw the Arbitration Application and the Arbitration Petition but submits that liberty be reserved to adopt appropriate proceedings in a Court of competent jurisdiction.

4. Leave granted with liberty as prayed. The Arbitration Application and the Arbitration Petition both are disposed of as withdrawn.

(G. S. PATEL, J)