

dik

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

COMM.ARBITRATION PETITION NO. 737 OF 2018

Tusharkanti Das
vs
Umadevi Tushar Das & 2 Ors.

...Petitioner.
...Respondents

.....
Mr Sharan Jagtiani a/s Ms Nita Solanki i/b Kiran Jain & Co. for the
Petitioner.
Mr Rahul Karnik for Respondent No.1.
Mr Rajan R. Yadav for Respondent No.2.

.....
**CORAM : B.P.COLABAWALLA, J.
JANUARY 17, 2019.**

P.C. :

This Arbitration Petition has been filed seeking to challenge the order dated 10th March, 2018 passed by the Arbitral Tribunal on an application filed by the Petitioner herein seeking to modify/vacate the earlier order passed by the Arbitral Tribunal on 24th September, 2016. This order dated 24/9/2016 was passed u/s 17 of the Arbitration and Conciliation Act, 1996.

2 Mr Jagtiani, learned counsel appearing on behalf of the Petitioner (original Respondent No.1 before the Tribunal) states that due to subsequent development, namely, the fact that Citibank to which the monies were owed, and for which the subject property was given as a security, initiated proceedings under the provisions of the

SARFAESI Act and have also now sold the subject property, namely, Flat No.1004, 10th Floor, Manit Apartments, Opp. Ganesh Talab, Chembur, Mumbai - 70. In view of this subsequent development, the Petitioner has preferred a second application for modifying /vacating the order passed by the Tribunal on 24th September, 2016. He, therefore, seeks leave to withdraw this Arbitration Petition with liberty to pursue his remedy before the Arbitral Tribunal in the second application filed by the Petitioner.

3 In view of the subsequent developments and the statement made by Mr Jagtiani, on instructions, the Arbitration Petition is dismissed as withdrawn. No order as to costs.

4 The Arbitral Tribunal is requested to consider the second application of the Petitioner as expeditiously as possible on its own merits and in accordance with law. It is also made clear that the Arbitral Tribunal will be free to hold, if it so chooses, that this application need not be considered at all considering that the arbitral proceedings are at a very advanced stage. Before passing any order of any nature, the Arbitral Tribunal shall hear both the parties.

(B.P.COLABAWALLA, J.)