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

ARBITRATION PETITION NO.1007 OF 2019

Hindustan Mikars Paper Pvt. Ltd. & Ors.	...Petitioners
V/s.	
Phoenix ARC Pvt. Ltd.	...Respondent

Mr.Umesh Shetty with Mr.Roshan D'Souza and Ms.Heena Mody for
the Petitioners.

Mr.Sanjay Anabhavane with Ms.Dimple Tejani i/b Ms.Medha Rane
for the Respondent.

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

P.C. :-

1. Learned counsel for the parties invited my attention to the inadvertent errors crept in paragraph 2 of the order 26th September, 2019. The words "petitioners" shall be read as "respondent" in the said paragraph.

2. The order dated 26th September, 2019 stands corrected accordingly.

3. Learned counsel appearing for the respondent on instructions states that without prejudice to the rights and contentions of his client, the respondent would pay the differential amount of stamp duty, if any, adjudicated upon by the Stamp Authorities within one week from the date of communication of such order from the Stamp Authorities without admitting the liability to pay the stamp

duty. Statement is accepted as and by way of an undertaking to this Court.

4. The respondent is directed to lodge the original of the loan agreement annexed at Exhibit "B" to the petition in the office of the learned Prothonotary & Senior Master of this Court within one week from today. The said loan agreement stands impounded and shall be sent to the Stamp Authorities for adjudication within one week from the date of the respondent filing the original thereof with the office of the learned Prothonotary & Senior Master of this Court. The Stamp Authorities shall adjudicate the said document not later than 45 days from the date of receipt of the document and shall pass an appropriate order thereon. A copy of the order shall be conveyed to the respondent by the Stamp Authorities. In view of the undertaking rendered by the learned counsel for the respondent on behalf of the respondent, the respondent shall pay the amount as would be directed to be paid by the Stamp Authorities within one week from the date of communication of the said order and shall produce the original document duly stamped before the learned arbitrator.

5. Learned counsel for both the parties jointly agree that during the process of adjudication of the document, they would proceed with the arbitral proceedings before the learned arbitrator without prejudice to their rights and contentions. Statement is accepted.

6. Learned arbitrator shall also decide the issue as to who would be liable to pay the payment of stamp duty on the said document in accordance with the provisions of the loan agreement and also under the provisions of the Maharashtra Stamp Act in the final award. It is made clear that the respondent would be at liberty to tender the said document in evidence only if appropriate amount of stamp duty as may be adjudicated upon is paid by the respondent.

7. The arbitration petition is disposed of on aforesaid terms.

8. All parties, Stamp Authorities, the learned arbitrator as well as the learned Prothonotary & Senior Master of this Court to act on the authenticated copy of this order.

(R.D. DHANUKA, J.)