

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY**

ORDINARY ORIGINAL CIVIL JURISDICTION

COMMERCIAL ARBITRATION PETITION No. 893 OF 2018

|                                      |               |
|--------------------------------------|---------------|
| Godrej & Boyee Mfg. Co. Ltd.         | ..Petitioner. |
| Vs                                   |               |
| Hindustan Petroleum Corporation Ltd. | ..Respondent. |

Mr. Abhimanyu Mhapankar I/by Mr. S.V.Divekar for the petitioner.  
Mr. S.R.Page, Advocate for the Respondent.

**CORAM : B. P. COLABAWALLA, J.**

**DATED :- 16TH JANUARY, 2019.**

**P.C. :**

1) By this arbitration petition filed under Section 37 of the Arbitration and Conciliation Act, 1996 (for short "**the Act**"), the petitioner seek to challenge the Order dated 19<sup>th</sup> June, 2018 passed by the Arbitral Tribunal (Exhibit "B" to the petition). The petitioner is the original claimant before the Arbitral Tribunal. It appears that during cross-examination of the respondent's witness objections were taken by the Advocate for the claimants seeking deletion of various portions of the affidavit of evidence of the respondent's witness, inter alia on the ground that most of the evidence was not to the personal knowledge of the witness. This objection was

overruled by the Arbitral Tribunal and the cross-examination of the respondent's witness was ordered to be continued. It is this overruling of the petitioner's (claimant's) objection that is challenged by way of the present petition filed under Section 37 of the Act.

2) I find this petition is not maintainable. Section 37 of the Arbitration and Conciliation Act, 1996 clearly stipulates that an appeal shall lie from the following orders (and from no others) to the Court authorized by law hear to appeals from the original decrees of the court passing the order. Section 37 reads thus :

**“37. Appealable Orders.**

- (1) An appeal shall lie from the following orders (and from no others) to the court authorised by law to hear appeals from original decrees of the Court passing the order, namely: -
  - (a) refusing to refer the parties to arbitration under Section 8;
  - (b) granting or refusing to grant any measure under section 9;
  - (c) setting aside or refusing to set aside an arbitral award under section 34.
- (2) An appeal shall also lie to a Court from an order of the arbitral tribunal--
  - (a) accepting the plea referred to in sub-section (2) or sub-section(3) of section 16; or
  - (b) Granting or refusing to grant an interim measure under section 17.
- (3) No second appeal shall lie from an order passed in appeal under this section, but nothing in this section shall affect or take away any right to appeal to the Supreme Court.”

3) As can be clearly seen from the provisions of Section 37, the order impugned in the present petition is not an appealable order as contemplated under Section 37 of the Act. This being the case, the arbitration petition is dismissed. No order as to costs.

(B.P. COLABAWALLA, J.)