

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
ARBITRATION PETITION NO. 637 OF 2017
ALONGWITH
NOTICE OF MOTION NO. 1687 OF 2017

K. K. Enterprises

..... Petitioner

VERSUS

Inderkumar Kishandas

..... Respondent

Mr.Karl Shroff, a/w. Mr.Delaney Sylvester, i/b. M/s.Dhru & CO. for the Petitioner.

Mr.Dhanyakumar R.Talankar for the Respondent.

CORAM : R.D. DHANUKA, J.

DATE : 3rd JUNE, 2019

P.C.

Learned counsel appearing for the parties have no objection if the impugned award rendered by the learned arbitrator dated 15th July, 2017 is set aside and the matter is remanded back to the learned arbitrator appointed by the Mumbai Textile Merchants Mahajan. Statement is accepted.

2. Mr.Shroff, learned counsel appearing for the petitioner (original respondent) states that without prejudice to the rights and contentions of his client that the arbitral tribunal did not have jurisdiction to entertain the claims made by the respondent (original claimant), his client would file written statement before the arbitral tribunal within two weeks from the date of the respondent (original claimant)

furnishing the inspection of the documents relied upon by the claimant and copies thereof are furnished to the petitioner. Statement is accepted.

3. The impugned award is quashed and set aside.

4. Learned counsel appearing for the respondent agrees to furnish the inspection of the documents to the petitioner through his advocate within two weeks from today and would furnish a copy thereof to the petitioner's advocate simultaneously. Statement is accepted.

5. The petitioner shall file written statement within two weeks from the date of such inspection offered by the respondent and shall serve a copy thereof upon respondent's advocate simultaneously.

6. It is made clear that no extension of time would be granted to the petitioner or to the respondent to comply with this order.

7. It is made clear that the petitioner would be at liberty to file written statement without prejudice to the rights and contentions of the respondent that there was no arbitration agreement between the parties and that the arbitral tribunal did not have jurisdiction.

8. It is also made clear that if the petitioner does not succeed in the arbitral proceedings, the right of the petitioner to challenge the order passed by the arbitral tribunal under section 16 of the Arbitration and Conciliation Act, 1996 and the final award, if any, remains intact.

9. The learned arbitral tribunal shall make an endeavour to dispose of the arbitral proceedings expeditiously and not later than six months from the date of the submission of the pleadings.

10. The arbitral tribunal shall decide the matter afresh without being influenced by the observations made and the conclusion drawn in the impugned award.

11. Both the parties are allowed to appear before the arbitral tribunal through the respective advocates.

12. Arbitration petition is disposed of in the aforesaid terms.

13. The parties as well as the arbitral tribunal to act on the authenticated copy of this order.

14. In view of the disposal of the arbitration petition, Notice of Motion No.1687 of 2017 does not survive and is accordingly disposed of.

[R.D.DHANUKA, J.]