

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**ORDINARY ORIGINAL CIVIL JURISDICTION****Commercial Arbitration Petition NO. 1191 OF 2019**

Tata Motors Finance Solutions Ltd. ...Petitioner

Versus

Vijay Shreekant Gokhale Of Pune ...Respondents

Mr.Aseem Naphade with Ms.Sonali Mehta and Ms.Manasi Kalvit i/b.
Mahernosh J.Humranwala, for the Petitioner.

Mr.Prerak A.Sharma, for the Respondents.

CORAM : G.S. KULKARNI, J.**DATE : 11 October 2019****P.C.:**

1. Heard the learned Counsel for the parties.
2. This is a petition filed under Section 27 of the Arbitration and Conciliation Act,1996 (for short 'the Act') whereby the petitioner is praying for issuance of a witness summons to a representative of the HDFC Bank Ltd., Fort Branch, Mumbai, to remain present before the learned Sole Arbitrator alongwith the bank statements, as prayed for in prayer clause (a).
3. Mr.Naphade, learned Counsel for the petitioner has drawn my attention to the order dated 7 August 2019 passed by the learned Sole

Arbitrator and more particularly paragraphs 16 and 17 in the said order. The learned Arbitrator has accepted the contention as urged on behalf of the petitioner that a witness from the HDFC Bank be permitted to be examined by the petitioner.

4. Learned Counsel for the respondent would oppose this petition on the ground that qua the witness being examined, there is no relevancy of evidence of this witness. It is submitted that when the order came to be passed on 7 August 2019 by the arbitral tribunal, respondents did not have sufficient opportunity to raise their objections on such witness being examined on behalf of the petitioner. He accordingly submits that this Court should consider as to whether at all in the facts and circumstances of the case, the evidence which would be lead by this witness so being summoned, would be relevant, in the adjudication of the disputes by the arbitral tribunal.

5. I am afraid that such contention as urged on behalf of the respondents cannot be accepted in the petition which is filed under Section 27 of the Act. The jurisdiction under Section 27 is certainly not the Court to adjudicate on the relevancy of the evidence. This is also a view taken by this Court in “*Montana Developers Pvt.Ltd., Mumbai Vs. Aditya Developers, Mumbai & Ors.*”¹

6. Having heard the learned Counsel for the parties and having perused the averments as made in the petition, in my opinion, the petition is required to be allowed by directing that a competent representative of the HDFC Bank Ltd., Fort Branch, having its office at Ground floor, Manekji Wadia Building, Nanik Motwane Marg, Mumbai-400001, is directed to remain present before the Arbitral Tribunal alongwith the bank statement of Tata Motors Finance Ltd. for Account No.00600310017149 for the months of January and February, 2015 together with the certificates under the Bankers' Book Evidence Act,1891 as well as beneficiary account details connected with the entries contained therein. The witness to remain present on 14 October 2019 at 5.30 p.m. on the following address:

R.J.Law, 1st Floor, Vardhman Chamber,
7-G, Cawasji Patel Road, Kala Ghoda,
Fort, Mumbai-400001,

7. Ordered accordingly.
8. Hamdast of the witness summons is permitted.
9. Needless to observe that all contentions of the parties are expressly kept open on the issues which would arise on the evidence of witness being so summoned.
10. Parties to act on the authenticated copy of this order.

[G.S. KULKARNI, J.]