

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**ORDINARY ORIGINAL CIVIL JURISDICTION****ARBITRATION PETITION NO.136 OF 2005**

Hyundai Corporation & Anr.

...Petitioners

vs

Oil And Natural Gas Corporation Ltd.

...Respondent

.....

None for the Petitioners.

Ms. Kajal Solanki, a/w. Mr. Aziz Khan and Mr. Anish Ramchandani, i/b.
Divya Shah Associates, for the Respondent.

.....

CORAM : S.C. GUPTE, J.**DATED: 11 FEBRUARY 2019****P.C.:**

. This arbitration petition challenges an award passed by a sole arbitrator in 2002. By an order dated 28 November 2005, this Court refused to set aside the award and dismissed the petition. It appears that the matter was finally carried to the Supreme Court. The Supreme Court, by its judgment and order dated 3 August 2017, set aside the award and remitted the matter to the arbitral forum. Since the umpire, who had originally passed the award, was no longer alive, a substitute umpire was appointed in his place to decide a narrow issue pertaining to the reference on remand. The substitute umpire has since delivered his award dated 6 January 2018. When the matter was brought again to the Supreme Court, the Court was of the view that in view of the earlier judgments of the Court having been overruled by a five Judge Bench decision in the case of **State of Jharkhand vs. Hindustan Construction**

Company Limited¹, it was not possible for the Supreme Court to retain seisin over the arbitrtion proceedings, as if it were a court of original jurisdiction. This being the case and following the law laid down in **Hindustan Construction Company's** case, the Supreme Court permitted the Petitioners herein to approach the concerned court within a period of four weeks from the date of the Supreme Court order. The four week period has expired on 6 January 2019. There is no approach as yet by the Petitioners challenging the new award passed by the substitute umpire. In any case, the present petition challenges the award of the umpire, who had originally passed the award, and does not challenge the new award by the substitute umpire, which would have to be challenged in case the Petitioners are aggrieved by that award. In the premises, the present arbitration petition is dismissed.

(S.C. GUPTE, J.)

¹ (2018) 2 SCC 602