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

ARBITRATION PETITION NO.395 OF 2019

Dhirendra Ray	...Petitioner
V/s.	
Tata Capital Financial Services Ltd. & Anr.	...Respondents

Mr.Devasis Mitra I/b M/s.Fox Mandal Partner for the Petitioner.

Mr.Rahul Mehta I/b KMC Legal Venture for the Respondent No.1.

CORAM : R.D. DHANUKA, J.
DATE : 30TH JULY, 2019.

P.C. :-

1. By this petition filed under section 34 of the Arbitration & Conciliation Act, 1996 (for short “the Arbitration Act”), the petitioner has impugned the arbitral award dated 15th June, 2018 passed by the learned arbitrator allowing certain claims made by the respondent no.1.

2. The arbitral award is impugned mainly on the ground the petitioner was not served with the notices of hearing by the learned arbitrator before allowing the claims made by the respondent no.1.

3. Learned counsel appearing for the petitioner could not dispute that the arbitral award dated 15th June, 2018 passed by the learned arbitrator was served upon the petitioner and was received

by the petitioner at the same address mentioned in the cause title of the petition on which notices were sent by the learned arbitrator .

4. A perusal of the award indicates that the petitioner was given sufficient opportunities by the learned arbitrator to remain present before the learned arbitrator. The petitioner however had chosen to remain absent and to file the written statement before the learned arbitrator. Learned arbitrator after considering the documents and the pleadings filed by the respondent no.1 allowed the claims made by the respondent no.1.

5. Insofar as the submission of the learned counsel for the petitioner that though the respondent no.1 filed an application under section 5 read with section 8 of the Arbitration Act in the suit for injunction filed by his client before the Kolkata City Civil Court and in that application, there was no reference made to the arbitral award or arbitral proceedings is concerned, though there was no reference to the pending arbitral proceedings, I am not inclined to accept the submission made by the learned counsel for the petitioner that the notices of the arbitral proceedings would not have been served upon his client. Merely because there was no reference to the pending arbitral proceedings in the said application would not advance the case of the petitioner.

6. Learned arbitrator has rendered a well reasoned award. I

do not find any infirmity in the impugned award. The petition is devoid of merit and is accordingly dismissed. No order as to costs.

(R.D. DHANUKA, J.)