

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

ARBITRATION PETITION NO.419 OF 2015

Mazagon Dock Limited	...	Petitioner
Versus		
Patel Engineering Limited	...	Respondent

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Dr. Abhinav Chandrachud a/w Mr. Pushkal Mishra & Mr. M.A. Anand I/b
M.V. Kini & Co. for the Petitioner.

Ms. Shivani Kunder for the Respondent.

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CORAM : S.C. GUPTE, J.

DATE : 25 JANUARY 2019

P. C. :

. After the matter is heard at some length, it is agreed between learned Counsel for the parties that the impugned award may be set aside by consent and the matter be remanded to a new arbitrator for consideration of rate payable to the Respondent herein for the extra work of drilling in hard rock for extra length of sockets. Accordingly, the impugned award dated 10 September 2014 (as corrected on 25 September 2014 and again on 27 October 2014) is set aside by consent and the reference is remanded to a new arbitrator, namely, **Shri D.G. Diwate, Retired Engineer from Railways**. It is agreed that the only question that will be considered by the arbitrator shall be the rate payable by the Petitioner to the Respondent for extra work, namely, socket length of 4D instead of contracted socket length of 3D. Drilling of socket length of 1D has been agreed to be treated as extra work. The question to be decided in the arbitration on remand is the quantum of compensation, if any, payable

by the Petitioner to the Respondent for this extra work. The pleadings and evidence produced by the parties in the reference earlier and which form records of the proceedings shall be treated as pleadings and evidence, respectively, of the parties for the purpose of the arbitration reference on remand. In case, however, any of the parties proposes to file any additional pleading or evidence, such application may be considered by the learned arbitrator on its own merits. All rights and contentions of the parties in that behalf are kept open. The arbitrator shall conclude the reference and declare his award within a period of **four months** from the date of entering upon the reference. The Arbitration Petition is disposed of in the above terms. No order as to costs.

(S.C. GUPTE, J.)