

Atul

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
ARBITRATION PETITION NO. 1375 OF 2018

Orhan Shipping Pvt Ltd

...Petitioner

Versus

Sanjay Trading Co

...Respondent

Mr Vishal Sheth, i/b Bimal Rajsekhar, for the Petitioner.

**Mr Kunal Vaishnav, with Hussain Dholkawala & Prerna Verma, i/b
Ganesh & Co., for the Respondent.**

CORAM: G.S. PATEL, J.

DATED: 15th January 2020

PC:-

1. The Petition seeks enforcement of a foreign Award dated 30th July 2018. The Petition is, therefore, under Part II of the Arbitration and Conciliation Act 1996, and specifically Sections 47 and 48 of the Act.

2. Briefly stated, the claim arose under a voyage charter party dated 20th November 2015. That charter party was made in Mumbai. The Petitioner chartered a vessel called U NOBLE to the Respondent for carriage of cargo to India. The cargo in question was 50,000 MT, 10% more or less at the owners' option, of gypsum in bulk for carriage from the Persian Gulf to Paradip Port in India. That

charter party had an arbitration clause that required disputes to be referred to arbitration in London and the arbitration was governed by UK law.

3. The Petitioner made a claim for unpaid freight. This was disputed by the Respondent and it is these disputes that were referred to the London Maritime Arbitrators' Association or LMAA in London.

4. The learned sole Arbitrator was Mr Clive Aston. The claim presented to him was within the limits set by the LMAA Small Claims Procedure. He made an award dated 30th July 2018 in favour of the present Petitioner. The LMAA Small Claims Procedure does not permit appeals on account of the size of the claim, is the opinion obtained by the present Petitioner. In any case, the appeal filed by the Respondent against the Award dated 30th July 2018 received certain directions, including as to leave to serve outside jurisdiction. These remained without compliance. There appears to be no order of any Court of competent jurisdiction staying the enforcement of this Award in the jurisdiction where the Arbitrator had its seat, i.e. London.

5. The only opposition to the enforcement is that there was this appeal. But the Appeal Court directions appear to have received no compliance. On behalf of the Petitioner, it is stated that there is an automatic disposal for non-compliance. I am not shown anything to indicate that there is an operational stay against enforcement. There

is no other challenge under any of the available grounds under Section 48 of the Arbitration and Conciliation Act 1996.

6. The Petition is made absolute.

7. I am informed that by an order, dated 5th October 2018, made in a Section 9 Petition after the Award was passed (and a copy of which is at page 42 of the Petition at Exhibit 'F'), the Court recorded an undertaking by the Respondent that an amount of Rs. 40 lakhs would be deposited with the Prothonotary and Senior Master.

8. The prayer in the Petition is for recovery of an amount of Rs. 40,06,120/-. The claim for Rs. 6,120/- is immediately and readily foregone by Mr Sheth for the Petitioner. The amount of Rs. 40 lakhs having been deposited, the Petitioner is thus at liberty to withdraw the amount with accumulated interest. The Prothonotary and Senior Master will act on production of an authenticated copy of this order.

9. The Petition is disposed of accordingly. There will be no order as to costs.

(G. S. PATEL, J)