

**IN THE HIGH COURT AT BOMBAY
APPELLATE SIDE, BENCH AT AURANGABAD**

11 WRIT PETITION NO.11732 OF 2021

JAGDISH BHAGWANRAO MAHAMUNI
VERSUS
SHRI RENUKAMATA MULTI STATE COOPERATIVE URBAN
CREDIT SOCIETY LTD. AND OTHERS

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Advocate for Petitioner : Mr. M.V. Salunke h/f. Mr. V.D. Salunke
Advocate for Respondents 1 & 2 : Mr. V.D. Hon, Sr. Advocate i/b.
Mr. A.V. Hon

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14 WRIT PETITION NO.11735 OF 2021
15 WRIT PETITION NO.11736 OF 2021
33 WRIT PETITION NO.11759 OF 2021
36 WRIT PETITION NO.11762 OF 2021
48 WRIT PETITION NO.11775 OF 2021
WRIT PETITION NO. 11387 OF 2021

**CORAM : S.V. GANGAPURWALA &
R.N. LADDHA, JJ.**

DATED : 25/10/2021.

PER COURT :

. We have heard Mr. M.V. Salunke, learned advocate for the petitioners, Mr. Hon, learned Senior Advocate for respondent Nos. 1 and 2.

2. The proceeding before the respondent No. 3 – Arbitrator is in the nature of judicial proceeding. As such he would

not be necessary party.

3. The grievance of the petitioners is that the petitioner has raised plea of jurisdiction before the Arbitral Tribunal, the same is not being considered and in undue haste the matter is being decided. The question of competence of Arbitral Tribunal is not being considered by him.

4. Mr. Hon, learned Senior Advocate for respondent Nos. 1 and 2 submits that the Arbitrator would consider the proceeding in accordance with law. The subject matter is within realm and purview of the Arbitrator.

5. When objection to the jurisdiction of the Arbitral Tribunal is raised, the Arbitral Tribunal is competent to decide its jurisdiction as contemplated under section 16 of the Arbitration and Conciliation Act, 1996. According to the learned counsel for the petitioners, the petitioners have raised the plea that Arbitral Tribunal does not have jurisdiction along with the defence itself.

6. As per section 16(5) of the Arbitration and

Conciliation Act, the Arbitral Tribunal shall decide the plea referred to sub-sections (2) and (3) of section 16 and where the Arbitral Tribunal takes a decision rejecting the plea, continue with the Arbitral proceedings and make an Arbitral Award.

7. Naturally the Arbitral Tribunal is required to decide on its own jurisdiction. As it is contended that the petitioner has already raised the objection to the jurisdiction of the Arbitrator, the Arbitrator shall decide the aspect of jurisdiction before deciding the arbitral proceedings on the other merits.

8. With the aforesaid observations and directions, the writ petitions are disposed of. No costs.

[R.N. LADDHA, J.]

[S.V. GANGAPURWALA, J.]

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