

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

**APPEAL NO. 44 OF 2021
IN
ARBITRATION PETITION NO.38 OF 2021**

Peter Micheal D'Costa and anr. ... Appellants
Vs.
Shreepati Build Infra Investment Limited and ors.... Respondents

Mr.R.B.Jain alongwith Mr.Rohit Jain, Ms.Neha R. Doshi i/by M/s
Legal Juris, Advocates for the Appellants.
Mr.Abhijeet A. Joshi, Advocate for the Respondents.

**CORAM : R.D.DHANUKA &
V.G.BISHT, JJ.
DATE : APRIL 05, 2021.**

P.C. :

1. Appellants have filed this appeal under section 37 of the Arbitration and Conciliation Act, 1996 thereby impugning the order dated 24th March, 2021 which was a common order passed under sections 9 and 11 of the Arbitration and Conciliation Act, 1996, in so far the learned Single Judge not having granted any ad-interim relief in favour of the appellants is concerned in Arbitration Petition No. 38 of 2021 is concerned.

2. Learned counsel for the appellants states that though the appellants had prayed for ad-interim reliefs in the Arbitration Petition No.38 of 2021 filed under section 9 of the Arbitration and Conciliation Act, 1996, the learned Single Judge has simplicitor

converted the said application under section 9 as an application under section 17 of the Arbitration and Conciliation Act, 1996.

3. In view of this statement made by the learned counsel for the appellants and considering the direction issued in paragraph No.3 g(i) and (ii) of the impugned order, we direct the learned Single Judge to hear the petitioner on the ad-interim relief if any in the said Arbitration Petition No.38 of 2021.

4. It is made clear that this court has not expressed any views on the merits of the matter. If the learned Single Judge is satisfied that any ad-interim relief is required to be granted in favour of the petitioners, the learned Single Judge to pass an appropriate order and thereafter to convert the said petition under section 9 as an application under section 17 of the Arbitration and Conciliation Act, 1996.

5. The impugned direction issued in paragraph No.3(g) is modified to this effect.

6. Appeal is disposed of in the aforesaid terms. There shall be no order as to costs.

7. Respondents would be at liberty to file reply under section 9

within a period of one week from today.

8. It is made clear that appellants shall apply for ad-interim relief after such reply as directed is filed by the respondents in the said petition.

(V.G.BISHT, J.)

(R.D.DHANUKA, J.)

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