

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
ARBITRATION PETITION NO. 699 OF 2018

Mohan Shetty

... Petitioner

Versus

Bonanza Portfolio Limited

...Respondent

Mr. Kunal Katariya a/w Ms. Rinku Valanju, Mr. Pratham Masurekar and Mr. Aditya Shah i/b R V Legal for Petitioner.

Mr. Rajesh Khandelwal i/b Juris Link for Respondent No. 3.

CORAM : K.R.SHRIRAM, J.

DATED : 15th FEBRUARY 2021.

P.C. :

1. This is a petition filed under Section 34 of The Arbitration and Conciliation Act, 1996 (The Act). Under Section 34 of the Act, a party can apply for setting aside the award in accordance with Sub Section (2) and (3) of the Act. If one considers the petition, petitioner is not seeking the award to be set aside. But what petitioner is seeking is to direct respondent to pay sum of Rs.5,28,089/- which according to petitioner is the difference between the amount claimed and the amount awarded.

2. The claim as originally filed is not separable. Petitioner had claimed a sum of Rs.20,33,089/- and what has been awarded is Rs.15,00,000/- and Respondent was directed to pay a final sum of

Rs.11,90,000/- after giving credit to the amounts already paid by respondent to petitioner. Petitioner has received this amount of Rs.11,90,000/-. The reason in my view, petitioner has not prayed to set aside the arbitral award is because the claim is not separable and if the award is set aside, petitioner will have to bring back the amount of Rs.11,90,000/-. That is the amount petitioner has received under the award with which he is unhappy. Perhaps, that is the reason why petitioner was advised to file this petition seeking relief as prayed in the petition not setting aside the award. Such a relief under Section 34 of the Act cannot be granted.

3. Petition dismissed.

(K.R. SHRIRAM, J.)