

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

**APPEAL NO. 470 OF 2006
IN
ARBITRATION PETITION NO.358 OF 2004**

M/s Sanmar Foundries Limited ... Appellant
Vs.
Hindustan Petroleum Corporation
Limited and anr. ... Respondents

Mr.Farhan Dubash alongwith Mr.Chaitanya Chavan, Ms.Supriya Bhatkar and Mr.Sagar Parab i/by M/s Vigil Juris, Advocates for the Appellant.
Mr.Minoo Siodia i/by M/s Rustamji & Ginwala, Advocate for Respondents.

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

P.C. :

1. By consent of the parties, following order is passed:-

ORDER

- (i) Impugned order dated 21st August, 2005 passed by the learned Single Judge in Arbitration Petition No.358 of 2004 is set aside.
- (ii) Impugned arbitral award dated 10th April, 2004 passed by the learned arbitrator is set aside.
- (iii) The arbitral proceedings are restored before the learned arbitrator.
- (iv) Miss Vaishali M. Choudhary, Advocate is appointed as a sole arbitrator. The fees and the expenses of the learned arbitrator shall be borne by the parties equally at the first instance.

2. Mr.Siodia, learned counsel for the original petitioner-Hindustan Petroleum Corporation Limited undertakes to serve the original arbitral proceedings alongwith documents to the learned arbitrator within a period of six weeks from today with an index which shall be handed over to the learned arbitrator with a copy thereof to be served upon the appellant's advocate.

3. If according to the appellant all the records of the arbitral proceedings are not handed over to the learned Arbitrator, appellants are entitled to submit the remaining records with a copy to be served upon to the petitioner's advocate.

4. At this stage Mr.Dubash, learned counsel for the appellant states that the photocopies of the entire records have been already submitted before the learned arbitrator alongwith the appeal. He undertakes to file copy of such records before the learned arbitrator within six weeks from today. Undertaking is accepted.

5. Learned arbitrator shall proceed with the matter after expiry of six weeks from today, unless the arbitrator is informed by the parties that matter is amicably settled. Parties can take appropriate steps for settlement during this period of six weeks.

6. It is made clear that all the contentions of both the parties are kept open.

7. Learned arbitrator shall decide the matter afresh and in accordance with law without being influenced by the observations made and the conclusion drawn in the impugned award dated 10th May, 2004 and the impugned judgment dated 23rd August, 2005.

8. In view of the fact that both the parties have agreed for remand of the entire matter to the learned arbitrator, it is made clear that the learned arbitrator shall proceed with the proceedings and with the available record. None of the parties shall file any additional proceedings or additional documents before the learned arbitrator during the course of hearing.

9. Learned arbitrator shall make an award within six months from the date of commencement of the arbitral proceedings.

10. Arbitration appeal is disposed of. No order as to costs.

11. The parties to act upon a copy of this order authenticated by the Associate of this court.

(V.G.BISHT, J.)

(R.D.DHANUKA, J.)