

Prajakta Vartak

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

ARBITRATION PETITION NO. 253 OF 2022

Deepdharshan Builders Pvt. Ltd. ..Petitioner
Vs.
Saroj wd/o. Satish Sunderrao Trasikar & Ors. ..Respondents

Mr. Deepak Shukla i/b. M/s. Vinod Mistry & Co. for Petitioner.
Mr. U. J. Makhija with Ms. Twinkle Gadhiya i/b. M/s. L. C. Tolat & Co.
for Respondents.

CORAM : G.S. KULKARNI, J.
DATE : JUNE 28, 2022.

P.C.:

1. This is a petition filed under Section 27 of the Arbitration and Conciliation Act, 1996 (for short, “the Act”) whereby the petitioner has prayed for the following prayer:-

“(a) This Hon’ble Court be pleased to issue witness summons to Mr. Arvind Rathod, Advocate and Solicitor of Arvind Rathod and Co. having his office at 137-139 Modi Street, Jessia House, 7A, 3rd Floor, Fort, Mumbai – 400 001 in order to record his evidence.”

2. The learned arbitrator has passed an order dated 07 March, 2022 on an application as filed by the petitioner under Section 27 of the Act wherein a prayer was made to permit the petitioner to seek assistance of this Court to examine such witness. The learned arbitrator has recorded detailed reasons as to why he intends to permit such witness to be examined by the petitioner/claimant.

3. I have perused the order passed by the learned arbitrator. Considering the scope of jurisdiction of this Court under Section 27 of the Act and more particularly as held by this Court in case of **Dilip s/o.**

Bhavanji Shah v/s. Errol Moraes in Arbitration Petition (L.) No. 722 of 2022, such provision merely enables the parties to take assistance of the Court for taking evidence and does not confer any adjudicatory powers. The petition is accordingly required to be allowed. It is accordingly allowed in terms of prayer clause (a).

4. Office is directed to accordingly issue a witness summons to Mr. Arvind Rathod, Advocate and Solicitor from Arvind Rathod and Co. directing him to remain present before the arbitral tribunal on 08 July, 2022 at 04.30 p.m. at the following address:-

“Room No.66, 5th Floor, Ali Chamber, Fort, Mumbai-400 023.

5. The advocate for the petitioner to provide to the registry the complete address of the witness.

6. Needless to observe that all contentions of the respondents, including the right of the respondents to cross-examine such witness, are expressly kept open.

7. Disposed of in the above terms. No costs.

[G.S. KULKARNI, J.]