

Prajakta Vartak

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

ARBITRATION PETITION NO.809 OF 2018

Borivali Sangram CHS Ltd. ..Petitioner
Vs.
M/s. K. T. Group Partnership Firm ..Respondent

Ms. Akanksha Mishra with Ms. Smriti Pal i/b. Solicis Lex for Petitioner.
Mr. Rohan Waghmare i/b. Ms. Sunita Poddar for Respondents.

CORAM : G.S. KULKARNI, J.

DATE : MARCH 21, 2022.

P.C.:

1. This petition has been circulated on behalf of the petitioner praying for withdrawal of this petition.
2. This petition is pending since last almost 4 years. It appears that this petition was tagged along with some other petitions on which certain orders came to be passed in such proceedings. Today learned counsel for the petitioner submits that the petitioner intends to withdraw this petition with liberty to file a fresh section 9 petition.
3. In view of the above situation, in my opinion, considering the provisions of Section 9(2) of the Arbitration and Conciliation Act, 1996 (for short, "the Act") and the fact that this petition filed under Section 9 of the Act itself is pending since last four years, the petitioner ought to have initiated arbitration proceedings by invoking the arbitration agreement, in the event the petitioner is aggrieved by any action of the respondents. It is thus open to the petitioner to invoke the arbitration

agreement.

4. Accordingly, with liberty to the petitioner to initiate arbitration proceedings, the petitioner is permitted to withdraw this petition.

5. All contentions of the parties in the arbitral proceedings are expressly kept open.

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

[G.S. KULKARNI, J.]